LITERARY REMAINS

OF

THE LATE PROFESSOR

THEODORE GOLDSTÜCKER.

IN TWO VOLUMES.

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ARTICLE III.

THE RELIGIOUS DIFFICULTIES OF INDIA.

1. *Dialogues on the Hindu Philosophy: comprising the Nyâya, Sânkhya, the Vedânt; to which is added a discussion of the authority of the Vedâs.* By Rev. K. M. Banerjea, Second Professor of Bishop's College, Calcutta. London. 1861.

2. *A Rational Refutation of the Hindu Philosophical Systems.* By Nehemiah Nilakântha Sastri Gore. Translated from the original Hindi, printed and manuscript, by Fitz-Edward Hall, D.C.L., Oxon., H.M.'s Inspector of Public Instruction for the Central Provinces. Calcutta. 1862.

3. *The Chhândogya Upanishad of the Sâma Veda, with extracts from the Commentary of Sankara Achârya.* Translated from the original Sanskrita, by Rajendralala Mitra. Calcutta. 1862.

Ours is an age of unbelief. Meteors do not warn us; eclipses of sun and moon have lost for us their power of prognostication. We have fowls, like the ancient Romans, but they do not, as Pliny says, "daily govern the minds of our rulers" (hi magistratus nostros quotidie regunt). We kill and roast oxen and sheep, but there is no haruspex or thyoskoos to enlighten us on the mystical properties of their entrails, or on those of the smoke ascending from their flesh. Ants, spiders, and bees,

which had so much to tell in olden times, are silent now about future events; and though the aged portion of our fair sex seems still to adhere to the mysterious rules on omens and portents laid down in the learned works of Atreya, Charaka, Susruta, and other fathers of Hindu medicine, we have still a doubt whether it is powerful enough to arrest the sceptical bias of this age. Nevertheless there are signs which we should do well to dwell upon with the same awe as our forefathers did when a comet made its sudden appearance on their horizon.

Five years have passed since we quelled that untoward rebellion of India. Then, we said, it was the inferior race which dared to feel dissatisfied with the governing wisdom of its superiors. Men, deficient in religious notions, with a literature not worth considering, with institutions not heard of in civilized Europe, with laws of inheritance and adoption so inconvenient to the Indian Exchequer, had the presumption to give vent to a feeling of treasonable uneasiness, utterly unjustified, and therefore deserving the severest punishment. We have grown wiser since. We now remember that vast and wonderful literature of ancient India, which still fertilizes the native mind; we no longer close our ears to the numerous witnesses, dead and living, which testify to the superior intelligence and capacities of the Hindu race; we begin to admit that the institutions and laws dating from immemorial times and outlasting all the vicissitudes of Indian history must be congenial to the nation that reverses and upholds them so tenaciously; nay, humbly mindful of our own religious perplexities, we have thought it the wiser course to allow the Hindus themselves to settle their own mode of attaining eternal bliss.

"We desire," says Her Majesty, in that memorable Proclamation of the 1st November, 1858, which will ever be quoted to the glory of her reign, and to the honour of the Minister who then presided in her Councils of India—

"We desire," says Her Majesty to the Princes, Chiefs, and People of India, "no extension of our present territorial possessions; and while we permit no aggression on our dominions or our rights to be attempted with impunity, we shall sanction no encroachment on those of others. We shall respect the rights, dignity, and honour of our native princes as our own; and we desire that they, as well as our own subjects, should enjoy that prosperity and social advancement which can only be secured by internal peace and good government. . . .

"Firmly relying ourselves on the truth of Christianity, and acknowledging with gratitude the solace of religion, we disclaim alike the right and the desire to impose our convictions on any of our subjects. We declare it to be our Royal will and pleasure that none be anywise favoured, none molested or disquieted, by reason of their religious faith or observances, but all shall alike enjoy the equal or impartial protection of the law; and we do strictly charge and enjoin all those who may be in authority under us, that they abstain from all interference with the religious belief or worship of our subjects, on pain of our highest displeasure.

"And it is our further will that, so far as may be, our subjects, of whatever race or creed, be freely and partially admitted to offices in our service, the duties of which they may be qualified by their education, ability and integrity duly to discharge. . . .

"We know and respect the feelings of attachment with which the natives of India regard the lands inherited by them from their ancestors, and we desire to protect them in all rights connected therewith, subject to the equitable demands of the State; and we will that generally in framing and administering the law, due regard be paid to the ancient rights, usages, and customs of India."

It would be in vain to deny that these words have become the Magna

Charta of India; and it would be dangerous to misunderstand the signs which have risen on the political horizon of that country since they struck root in the native mind. The Hindus have ceased to look upon themselves as inferior in rights to their fellow-subjects in Europe. Their princes, undeterred by adverse decisions of former governments, firmly renew their claims, and plead them before the people of England; their native associations hold meetings, discuss and issue reports of the acts of Government, which rival in their form and contents the proceedings of the British Parliament; their press, though loyal, has grown manly, and their political agents in this country offer us the novel and instructive spectacle of convening meetings of Englishmen and of enlightening them on the actual position, the wishes, the rights, and the claims of their countrymen. But whereas those who were in the habit of looking down upon native talent and native acquirements may feel surprised when hearing Hindu politicians descant on international law, with quotations from Grotius, Puffenderf, Vattel, Donat, and Wheaton, others will probably find not less ground for reflection when they discover that religious questions also are dealt with now by native writers in a spirit and with an amount of European erudition which hitherto seemed to have been the exclusive privilege of western scholarship.

While contenting ourselves for the present with these general remarks on the important political changes which are shadowed forth by the actual movements in India, we intend in this article to draw the attention of our readers to that remarkable religious feature of Hindu development just alluded to.

Of all problems concerning the future of India the most problematical at all times has been the religious one. No government, whether Mohammedan or Christian, ever approached it without the strongest misgivings; and no government has hitherto been able to

offer any solution of it. We are neither surprised at the attempt nor at the failure. We comprehend that every one who, either through his personal intercourse or through his studies, has become acquainted with the actual religious condition of India, must consider it unsatisfactory in the highest degree; but we understand, too, that neither a foreign government nor foreign zeal apparently possesses the means of improving it. A creed, however objectionable to those who do not share in it, is always congenial to the mental condition of its professor. Beyond all things it is his property; and that property, too, which no oppressor can seize or annihilate. It must be valuable, since it can resist all might; and its value increases in proportion to the strength which oppression gains. No foreign law, no dictatorial force has ever modified the essential aspect of Hindu religion, beyond trifling changes illusory in themselves. Nor need we speak of the result which persuasion has obtained when laws have been ineffectual. Of the various causes which have produced its failure we need mention only one, which, in most instances, has been all-powerful—we mean ignorance. Without inquiring into that which it was intended to substitute for the creed to be removed, we may fairly assert that scarcely any one of those zealous men who have set out on their missionary tasks had ever undertaken to study the rise, the progress, and the decline of Hindu religion. Appearances alone have captivated their minds, and in appearances only have their successes resulted. "Our religion is that of the East India Company," was the satisfactory answer given to one of these successful missionaries when examining his converted flock before the bishop of his diocese; and experience shows that this answer holds practically good in nearly all other cases in which the worshipper of Brahma, Vishnu, or Siva, has learned to adore the Christian Trinity. To show a pious Hindu that he might abandon his rites without forfeiting salvation, required more than a superficial discourse on their

futility; to persuade an orthodox Brahmin that neither Vishnu nor Siva is the creator of the world, necessitated at least a knowledge of what Vishnu and Siva are; and such a knowledge would have compelled the missionary to ascend the height of Hindu antiquity, to study the Vedas and the numerous writings connected with it, to descend from it to the mediæval period of Hindu civilization, and to follow its meandering course through all the intricacies of Sanskrit literature. It is needless to say that the acquirement of such a knowledge was hardly ever dreamt of by any of those who meant to convince the Hindus of the errors of their various creeds.

We consider it therefore a new and remarkable phase in the development of India, not only that researches of the most arduous kind have been commenced in order to pave the way to that knowledge, but that native scholars of position and learning take upon themselves the task which has hitherto engaged the activity of European missionaries. It is a first-fruit we reap from the wisdom of the Royal proclamation. Conversion having ceased to be the means of obtaining or granting favours, the native mind will listen to its indigenous teachers without passion or mistrust, and in their turn English statesmen will have better opportunities for studying the minds of the Hindus by listening to their own scholars, than by learning the views—too often tainted by partiality—of European philanthropists.

We have placed at the head of this article the titles of two works, which illustrate what we have just called the new phase of the religious condition of India. Both works are written by native scholars of great accomplishment, and, though differing in their intrinsic value, tend towards the same goal. The "Dialogues on the Hindu Philosophy," by Mr. Banerjea, it is true, is the more learned and the more comprehensive of the two; it is more attractive in its form, and it has the advantage also of having been written in the masterly English in

which it is presented to the public by the author himself, who gives ample proof that he combines in a high degree the erudition of a Hindu Pandit with that of an English Professor. On the other hand, the "Rational Refutation of the Hindu Philosophical Systems," by Mr. Nehemiah Nîlakantha Sâstrî Gore, originally composed in Hindi, and translated by Dr. Hall, not only enjoyed the benefit of the numerous and valuable remarks of this accomplished scholar, but, as it seems to us, addresses itself more to the understanding and the training of the Hindus, than its more refined rival, which, on account of its superior merits, will necessarily be less appreciated in its own country than with us. When we mention, moreover, that both authors—the one tracing his pedigree to the oldest Brahmanic families of ancient India—have embraced the Christian religion in preference to that of their ancestors, we need not add that their conclusions are in favour of the creed they now profess.

It is essential, however, for a proper and due appreciation of their elaborate works, that no misunderstanding should exist in our reader's mind as to what we mean by the creed of their ancestors. As we shall enter more fully on this question in the course of these pages, it will suffice for the present to observe that the ancient religion of India has become gradually changed into the double form of an exoteric and esoteric creed. The worshippers of Brahma, Vishnu, and Siva in a great variety of forms in which these deities represent themselves to the native imagination, the adorers of the Saktis or female energies of these gods, of the Sun, Ganesa, and a number of other beings—all pretend that their mode of worship is founded on, and countenanced by, their revealed sacred writings, the Vedas, though its immediate source is to be found in the Purânas. These represent what we may call the creed of the masses, inasmuch as it appeals to the grosser capacities of human understanding. The esoteric creed of the Hindus

likewise appealing to the Vedas, is essentially philosophical. It professes to express the real meaning of these sacred works, by reducing their myths to allegories, and by proving that their essence is the doctrine of one God, the creator of the universe and the source of eternal bliss. Like Sankarâchârya one of the greatest Hindu divines, the professors of this creed admit the utility, and, as the case may be, even the necessity, of a sensual description of worship, as suited to the intellect of those who are not fitted for the unalloyed reception of eternal truth; but their object is gradually to elevate the mind of the masses, to wean it from rites based, as they argue, on the misinterpretation of their holy scriptures, and to prepare it for a pure conception of the deity. Amongst these, the followers of the Vedânta philosophy occupy the foremost rank, and exercise the greatest influence, so much so that this esoteric creed may be identified to a certain degree with the tenets of the Vedânta philosophy.

It is to this philosophical form of Hindu religion that the "Dialogues" and the "Refutations" are addressed. They do not condescend to deal with the worshippers of Vishnu, Siva, and their kin. For as their object is to penetrate to the *root* of Hindu thought, it becomes superfluous for them to lop branches without a stem. Or, to speak in plainer terms: since they endeavour to prove not only that the doctrine of all Hindu philosophies, the Vedânta included, is erroneous, but that the very source whence they profess to flow, the Veda, is devoid of authority and unworthy of belief, the whole Hindu Pantheon according to them loses its prop and tumbles to the ground.

It is the unenviable fate of those who, while dealing with matters of Hindu religion or Hindu literature, claim attention beyond the narrow circle of professional students of Indian antiquity, to have always to fence their statements with precautions which, in kindred and familiar matters, would be tedious and superfluous. Thus we believe that, in

spite of all the encouragement which the study of Sanskrit and Sanskrit literature has of late years received at the hands of the Indian Government, such precaution cannot yet safely be altogether dispensed with when it is necessary to deal freely with such terms as Veda and Hindu philosophies. Veda will no doubt represent to the popular mind some book like the Bible or the Koran, and with an expression like Hindu philosophies, it probably combines ideas like those suggested by the philosophy of Pythagoras, Aristotle, Plato, or to speak in homelier language, of Bacon, Locke, or Hume. Above all things, it will readily imagine some safe or at least some probable date by which we may not only assign a fixed position to these works in Hindu literature, but also determine the relation which they hold to one another, and the influence which the earlier writer exercised on the minds of his successors. We must at the outset, therefore, destroy such illusions wherever they may exist. We shall have to mention that the Veda is no wise comparable to the sacred writings of Jews, Mohammedans, or Christians; and we will at once confess that no one has as yet been able to connect any personage—in the historical sense of the word—with any of these writings, or the text books of modern philosophy, or to prove at which period of Hindu antiquity they were composed. Nor do the materials known to us justify more than theories on the relative position occupied by the three great branches of Hindu philosophy. So antagonistic is this utter mysteriousness of historical data in Indian literature with the matter-of-fact predilections of the European mind, that even conscientious writers on Sanskrit literature thought it indispensable to their task to lay before their readers at least some conjectural date of the antiquarian subject they were treating of; and so easily do personal opinions skilfully expressed become invested with the authority of proof, that authors drawing their information from these writers have transformed their imaginary dates into historical

definitions of time. It is necessary, therefore, for the formation of a proper judgment, to reduce these speculations, however interesting in many respects, to their real value, and to free our notions from the fetters they may impose.

We notice on these grounds with peculiar pleasure the sober and cautious manner in which the reverend professor has dealt with questions like these, and though we differ in various respects from the views he has expressed and the judgment he has passed, we cannot do better than attach our own remarks to the summary and ingenious sketch he has given in the commencement of his "Dialogues" of the rise and progress of Hindu theology and philosophy.

"The division of our Vedas," Mr. Banerjea writes (p. 41), "it is well known, is twofold, into Mantras and Brâhmanas. The former may generally be considered devotional, the latter ceremonial and dogmatic. As for the short treatises called Upanishads, they are, with a few exceptions, appendices to the dogmatic parts, and, like codicils of wills, are held to be the most recent, and therefore the most matured, expositions of the authors' minds. They profess to be repositories of *parâ vidyâ* or superior knowledge, and look down on the great bulk of the Vedas as *aparâ*, or inferior. They contain some rude indications of philosophic thought, and, like the twinklings of stars in a dark night, may occasionally serve as guides in a history of Hiudu philosophy. They do not, however, exhibit any great attempt at method, arrangement, classification, or argument. Even there the poetry predominates over the logic. Bold ideas abruptly strike your fancy, but you find no clue to the associations which called them forth in the author's mind, and search in vain for the reasons on which they were based. Sublime thoughts are not wanting, but they resemble sudden flashes, at which you may gaze for a moment, but are imme-

diately after left in deeper darkness than ever. Nor are they free from those irregular flights of the imagination in which poets,, with vitiated tastes, delight to indulge, setting at defiance all rules of decency and morality.

"The Upanishads appear from their language and style to have been the latest, and the Mantras the earliest, of Vedic compositions. It may be a delicate question, but it is one which ought not to be unfairly suppressed, whether the authors of the earliest compositions, the Mantras, profess to have written them down as inspired records. You are fond of saying that they were breathed out by Brahmâ at the time of the Creation, and yet you speak of the *Rishi* of each *Mantra*. The *Mantra* itself is such that its *Rishi* may well be supposed to have composed and chanted it, and there is nothing as to matter and style which could possibly require divine illumination. That our ancestors looked on the Vedas with such reverence is no marvel. The Vedas were the first national efforts in the department of literature. In the infancy of literature, the ignorant, who did not know how to read or write, would naturally look upon those mysterious talents as divine endowments, as especial instances of Saraswati's grace. They would accordingly feel a sort of religious veneration for such gifted and highly favoured persons, and consider their writings as divine inspirations. . . . .

(P. 46): "Between that period and the age of the Darsanas, however, a tremendous revolution had taken place in the opinion of men. From extreme credulity to extreme infidelity the transition is easy. Those who were called upon to render implicit obedience to the Brahminical college, began to question the very foundations of sacerdotal authority. The Brahminical hierarchy had become so powerful as to set the sovereignty of kings and princes at defiance. The fear of incurring their malediction—an anathema the effects of which

would be felt for countless generations—would haunt the priest-ridden minds of Kshetriyas by day and by night, if ever they set themselves in opposition to Brahmins. . . . . At length, however, a prince arose in the royal line of Ikshwâku, determined to dissolve the charm by which the minds of men were held in servitude to the Brahmins. Sâkya Muni imposed on himself the task of reforming the religion of his country. . . . . He pronounced the rites and ceremonies of the Veda to be idle sports, and the exclusive privileges arrogated by the Brahmins to be empty pretensions. He assailed the authority of the very books on which those pretensions were founded. He declared that the division of castes was a mere human invention, and invited all ranks to assemble under his banners on a footing of equality. The Brahmins add that he also denied the immortality of the soul, and pronounced the expectation of a future world to be a vain reverie. Whether Buddhism was really liable to the charge of materialism preferred against it by the Brahmins or not, it certainly had no divine revelation to plead for its support, nor could it appeal to any tradition in its favor. It could only stand on its *rational* pretensions. The study of philosophy and metaphysics was therefore absolutely needed for its very existence. So long as men believed in the infallibility of the Veda, they could appeal to its texts for the decision of controversies and the solution of doubts. But when revelation was ignored, disputes could only be settled by the verdict of *reason*. The necessities of Buddhism rendered the cultivation of logic and metaphysics absolutely indispensable, and thus were the first attempts at philosophy called forth in India. . . . ."

On the obscure question, as to the chronological position of the different systems of Hindu philosophy and on their contents, Mr. Banerjea expresses, amongst others, the following opinion :—

(P. 49): "Of our six *Darsanas* or schools of philosophy, two, those of Jaimini and Vyâsa, are generally considered orthodox; while the other four are looked upon with great suspicion by the Brahmins themselves. I think that the Darsanas of Jaimini and Vyâsa (called the Former and Latter Mîmânsâs, or deciders) were written with a view to correct the errors of their predecessors, and were of more recent date than the rest. The Nyâya and the Sânkhya are in fact a sort of compromise between Brahminism and Buddhism. They contain as much of the Buddhist element as could be held without danger to Brahminical supremacy. The authors *profess* to uphold the Veda because experience had taught them that the dignity of their order could not be maintained without the Veda; and they inculcate the reality of future states of life against the Buddhists. But the spirit of their teaching is quite as hostile to the ritual of the Veda as that of Buddhism. I believe, therefore, that the Nyâya and Sânkhya were amongst the first-fruits of the Brahminical intellect when it sought to enlist the aid of rationalism in the service of the Brahminical order. As to the question of priority between the two systems themselves, the fact of one of the Sânkhya Sûtras making plain reference to the Nyâya, and speaking of its *sixteen* topics, may be considered as decisive proof in favor of the Nyâya. Such evidence, it is true, is far from being conclusive, because there have been many interpolations; but the Nyâya is the least controversial among the systems, and there is no reason of any cogency for rejecting the authenticity of the Sânkhya Sûtra in question. The Nyâya may therefore be considered the first production of Brahminical philosophy after the overthrow of Buddhism in India. The prevalence of Buddhism had convinced the Brahmins of the use of metaphysics in conducting controversies, and expressly in refuting objections; and of the risks they ran of winning the contempt of the community by confining their attention to the simple ritual of the

Vedas. The Nyâya, with its orderly array of scientific terms, its physics, logic, and metaphysics, *was manifestly fitted to train and quicken* the intellectual powers. While heresy had been rampant, the vast majority of the Brahminical order were unable to think for themselves, or unlearn prejudices already instilled into their minds. The reasons for which Sûdras were relieved from the task of intellectual exercises, were becoming more and more applicable to the twice-born classes. Traditional teaching, and the prescribed ritual, received with implicit submission, were fast incapacitating them for vigorous mental labour. If the servile tribes had a routine of duties made ready for them, the higher grades had also *their* routine, not indeed of servile attendance on human superiors, but of endless rites and ceremonies no less enslaving to the mind. As far as intellectual activity is concerned, the distinction between Brahmins and Sûdras had become almost nominal.

"The author of the Nyâya would no doubt have the satisfaction of believing that his new system would arrest the progress of heresy, and prevent the gradual decline of the orthodox intellect. If the Brahmin's mind continued to be stinted by the discipline of the Vedas, in the same manner as the Sûdra's was by the authority of the twice-born, what real difference would here remain between the highest and the lowest tribes? Implicit submission of intellect was exacted from both. Was it at all wonderful, then, that heresy stalked abroad, and that many Brahmins had themselves fallen into the snare? Could minds of any activity acquiesce in the above restrictions? Must they not meditate on the wonders of the creation, except as the antiquated Vedas directed them? And must they always interpret the Vedas in the monotonous way taught by the old Rishis? Orthodox philosophers accordingly came forward to supply the craving of the Brahminical mind, without endangering the stability of the Brahminical order.

They did not seem to think very highly of the Vedas, but were unwilling to renounce those time-honoured compositions. . . . .

(P. 55): "The same desire of humouring the prejudices of the times, led them to promise supreme felicity as the reward of philosophical speculation. Nothing short of the *summum bonum* was considered as sufficient recompense for the trouble it imposed. That the sentiment of religion predominated in the minds of our ancestors, is evident from the spirit of our ancient literature. It indicates a feeling of dependence on supernatural powers, which is equalled only by the contempt the authors expressed for the perishable objects of the world. Philosophers perhaps imagined that whether they treated on the highest truths which could concern human nature, or merely speculated on the quality of earth and water, they could never find an audience, unless they held out hopes of everlasting welfare as the end of their investigations. In the estimation of their contemporaries, no inferior boon was worth the trouble. The offer of such spiritual rewards on the part of philosophers, for investigations chiefly physical, at best metaphysical, though it must be accepted as a pleasing testimony to the religious feelings of our predecessors, was productive of consequences very much to be regretted. Physics, metaphysics, and theology were confounded in one mass. While the most trifling points of inquiry . . . . were prosecuted with some feeling of religious awe, questions of really vital importance, which regarded the existence and attributes of God, and the permanent interests of the soul, were necessarily robbed of their due solemnity. Theology and physics being placed on the same level, the former could challenge no greater degree of attention than was accorded to the latter. The degradation of the one, and the undue exaltation of the other, were the natural consequences." . . .

(P. 58): "Gotama directed the attention of the Brahmins to the

several branches of human knowledge which he thought were calculated to strengthen the intellect, and enable it to conduct polemical discussions with advantage. He classified them under sixteen topics, which he enumerates in his first aphorism." . . .

"Kanâda's system (the *Vaiseshika*) is considered a branch of the Nyâya. His theory is what we call the Atomic—a theory which was simply hinted at by Gotama (the founder of the Nyâya). . . . His categories and his classification of causes bear a similar resemblance to those of the Greek philosopher Aristotle, while his mode of accounting for the origin of the world, by the combination of atoms, is almost identical with that of a sect of ancient European philosophers, the Epicureans, as represented by Lucretius. . . . He does not seem to have entertained the idea of a self-existent Supreme Intelligence existing in the world.

(P. 64): " . . . Kapila came forward next with his remedy for the *threefold evils* of life, which neither the Vedas nor the common sense of mankind had been able to remove. Who this Kapila was, and when he lived, is equally uncertain with the age and personality of Gotama. . . . Kapila went the length of denying outright the existence of the Deity. The wonder is that he is still ranked among orthodox philosophers, and not denounced as a teacher of heresy, like the Buddhists. With Kapila there could be no real freedom if a person were subject to a desire or motive. The soul being essentially free, is, according to his theory, incapable of volition. It is *udásin*, or perfectly unmindful of the external. It is a simple witness. He accordingly argues that since no thinking agent performs an action without a *motive*, the soul could not be supposed to be the Creator without being subject to a motive or desire. Such subjection, however, would imply a *bondage*, and detract from its freedom, and, by necessary consequence, from its power. If it had the desire, it would be wanting in

the *power*—and if it had the *power*, that is to say perfect freedom, it would not have the *will*. Hence a thinking agent *would* not if he could, and *could* not if he would, create the universe. The acuteness displayed in this argument is indisputable, but subtlety and profundity are not synonymous." . . .

(P. 68): "The objects of knowledge are, according to Kapila's arrangement, twenty-five. *Prakriti*, or nature, defined to be the equipoise of the three qualities of *excellence*, *foulness*, and *darkness*, is the first, as *Purusha*, or soul, is the last. The intervening twenty-three are *mahat*, or intelligence; *ahankâra*, or self-consciousness; the five *tanmâtra* or subtle elements, eleven organs inclusive of the mind, and the five gross elements. Of these, Prakriti, the *rootless root*, is the first cause of all things; while *Purusha*, or soul, is a simple witness. Both are eternal: but the former, inanimate and non-sentient, is prolific and active; the latter, intelligent and sentient, is non-productive, because free and indifferent. Prakriti, however, creates *for* the soul and in its vicinity.

"The atheistic part of Kapila's system was rectified by a mystic Rishi of the name of Pâtanjala, who unmistakeably inculcated the existence of *Iswara* or God, and whose system has consequently been called *Seswara* or theistical. It must, however, be confessed, in justice to Kapila, that Pâtanjala does not attribute the creation to his Iswara. His definition of Iswara corresponds exactly to Kapila's idea of the soul, viz., 'untouched by troubles, works, fruits, or deserts.' The only difference is that Pâtanjala considers him to be the Guru, or master, of 'even the elder beings,' merely acknowledging one spirit as supreme over the rest. The non-acknowledgment of some such Supreme Being was a glaring inconsistency in Kapila, when nevertheless he contended for the authority of the Vedas. Who could have inspired the Vedas if there were no Supreme Being? Pâtanjala's is thoroughly a mystical

system. It consists mainly of some vague rules of *yoga*, or a sort of mental and corporeal discipline, which cannot be considered as other than chimerical." . . . . .

(P. 75): "When Jaimini came forward with his *Mîmânsâ*, or decider, he was probably desirous of mediating between the controversalists that preceded him, and hoped to determine questions which had so long agitated the Brahminical mind. He could not fail to see that neither the Vedas, nor the institutions they supported, could stand long if the Nyâya and Sânkhya were to direct the Indian intellect. Barren speculations, he thought, had been abundantly indulged. Topics, categories, and principles had been sufficiently discussed. What was the result? They had introduced some technical terms, and taught some controversial tactics; but they gave little or no assistance in the discovery of the truth which those terms and tactics were intended to guard. . . . . . He commenced his *Mîmânsâ* with the enunciation of *Duty*, the only topic he had to propound. . . . . If Jaimini had carried out his proposal of considering the nature of *duty* in a truly philosophical spirit, he might have greatly contributed to the improvement of the Indian mind. . . . . Had Jaimini laboured in a similar way to strengthen those moral principles which the Almighty had implanted in the human mind, he might have met with a success honourable to himself and beneficial to the nation; but a servile adherence to the Vedic ritual had unfitted his mind for such speculations. Jaimini had no other idea of duty than as *an injunction of the Sruti;* and that apart from any notion of its Inspirer, or his Will. We have seen previously how Kapila could admit the Vedas as an authority, without a Supreme Intelligence to inspire it. We observe a similar anomaly in Jaimini. He urges the consideration of DUTY, without caring for any to whom it may be *due*. He contends for the authorized Veda without an *authorizer*, for a law without a *lawgiver*, a revelation without a

God. . . . . To say that Dharma (duty) signifies an injunction of the Veda, can only be intelligible in the sense of its involving the will of the Author of the Veda. Jaimini, however, has said nothing as to its Author, nor while talking of its eternity, as Sabda, or the word, has he made mention of any co-eternal Intelligence uttering or revealing it. His Sûtras are so vague on this point, and on the existence and providence of God, that, for anything which may be adduced to the contrary, he may be called a *second* Kapila, maintaining the authority of the Veda without admitting His existence, without whom no composition can be produced to be inspired. . . . . That the Mîmânsâ of Jaimini met with no success in settling the questions so long controverted is no marvel. . . . . (p. 80.) *Vyâsa*, the well-known compiler of the Vedas, accordingly put forth a second *decider*, the Uttara Mîmânsâ, or Vedânta, in which the old pantheistic doctrine of the Upanishads was reproduced. Not to give an uncertain sound like Jaimini on such a cardinal point in theology as the existence of a Supreme Intelligence, the Creator and Governor of the Universe, he propounded that as the most prominent, and the only great, idea pervading his system. But if there can be no mistake as to the idea of a god in his doctrine, it is neutralized, if not nullified, by the identity of that God with everything else—with the whole visible world. He inculcates the existence of one *sole essence*, manifesting or producing itself in the form of the universe before our eyes. If Brahma is the efficient cause or creator of the world, he is also its *substance*, as the gold is of the bracelet. This identity of the universe with God precludes the idea of duty on the part of the creation towards the Creator quite as effectually as does Jaimini's theory. . . . . The doctrine which Vyâsa brought to light from the depths of the Veda, is no other than the teaching of the Upanishad, that this universe is God—that the things made and their Maker are identical—that the human soul is

one and the same with the Divine spirit. The doctrine is held in two different ways. One way is the *Parinâma Vâda*, which, acknowledging the reality of the visible universe while it identifies it with God, pronounces it to be a formation or development of Himself. The other is the *Vivarta Vâda*, which, maintaining that the one eternal essence, Brahma, manifests himself in various illusory forms, denies the *real* existence of any substance which is not God, and holds the visible world to be a mere shadow or Mâyâ, such as the reflections of the sun and moon in water. . . . . . All ideas of duty and responsibility are openly repudiated in the Vedantism of Vyâsa. The human soul and the Divine Spirit being identical, how can there be an obligation on the part of the one to the other? How or whom can one mind or despise? 'Here,' says Sankara, 'there is no admission of even a smell of works.' Good manners and good works are, however, declared to be *useful* for the attainment of true knowledge."

We have made this long quotation from the interesting work of Mr. Banerjea, not only because it contains the nucleus of the ideas developed, explained, and illustrated in his "Dialogues," but because we are not aware that any writer before him has ever attempted to give so continuous and graphic a sketch of the origin and sequence of the various portions of Hindu philosophy as is presented here in the foregoing extracts. But we should fail in doing justice to him did we not add to them at once the views he takes of the authority of the Veda. After having refuted the arguments of several writers who contend for the omniscience and the eternity of the Veda, he asks (p. 485):

"What can the Vedas possibly be in the conception of Brahminical philosophers? Not the word of God, not a revelation of His will—such as is needed for our guidance under bewildering circumstances, but something which, certain of them affirm, mechanically issued from

Brahma, like smoke from burning fuel; something which, others declare, was educed from the elements; something which, others again tell us, is eternal and independent of a cause. But what that thing is it is impossible to gather from them, unless it be a charm or talisman. They talk of it as articulate sound; but what is articulate sound without a sounder or utterer? and they all identify it with Rich, Yajus, Sâman, and Atharvan. Singularly enough they know nothing about the date or circumstances of these compositions. . . . . Again I ask, what are the Vedas? In the Satapatha Brâhmana it is said: "He (Prajapati) brooded, &c. over *i.e.* [infused warmth into] these three worlds. From them, thus brooded over, three lights were produced—fire, this which purifies (*i.e. pavana*, or the air), and the sun. He brooded over these three lights. From them so brooded over, the three seeds were produced." . . . . What were these productions? Mere sounds, or writings on paper or palm-leaf? In either case how could they be generated by brooding over fire and the sun? . . . . The Chhândogya and Manu speak in a similar way of the origin of the Vedas. Kullûka Bhatta, in explanation of the difficulty we have stated, says: "The same Vedas which existed in the previous mundane era (Kalpa) were preserved in the memory of the omniscient Brahma, who was one with the Supreme Spirit. It was those same Vedas that, in the beginning of the present Kalpa, he drew forth from fire, air, and the sun; and this dogma, which is founded upon the Veda, is not to be questioned; for the Veda says: "The Rigveda comes from fire, the Yajurveda from the sun." . . . . Manu adds: "Prajâpati also milked out of the three Vedas the letters a, u, m, together with the words bhûr, bhuvar, and svar.' . . . . What in the name of common sense is the meaning of all this?"

And after having quoted and criticised some other theories of the

origin of the Vedas, Mr. Banerjea winds up with the following words (p. 497):

"The assertion of Jaimini that the Rich, Yajus, Sâman, and Atharvan contain the primitive revelation, is not proved. No one knows when, where, or by whom, these four works were written, and consequently no one can pretend that they are a record of the primeval sound. On the contrary, a critical examination of their contents *disproves* their authority. As to the argument that the Vedas must have proceeded from the divinity, because no human author can be shown to have produced it, it is not of much validity. If a stranger, or a man brought up as a foundling, came to you, and no one was able to give you an account of his paternity, you would not surely conclude that he was coeval with the creation. And there is nothing in the general scope of the Vedas to justify the conclusion that they were revealed in the beginning. It is impossible to fancy what edification our first parents could derive from mere praises of the Sun, Moon, and Fire. If historical narrative were entirely excluded, the residuum would be mere invocations of the elements, and a few ceremonial injunctions."

That the reverend Hindu professor has not failed to support the views we have here adduced with his own arguments, and that he availed himself of his knowledge of the mind of his conntrymen to impart to them a far greater power of persuasion than they might have obtained at the hands of a European theologian, it is but justice to state. In omitting, therefore, to quote kindred views and sentiments from the "Rational Refutation" of Mr. Nîlakantha Sâstrî, we do not mean to withhold our acknowledgment of the able and clever manner in which this author also endeavoured to lay bare the weakness of Hindu philosophy and the errors of the actual Hindu creed. The

remarks we intend to offer apply to both of them, indeed to the whole class of those zealous men who expect to solve the religious difficulties of India by refuting the conclusions of Hindu philosophy, and by denouncing the assumed sacredness of the Vedic writings.

We must begin, then, with asking them how it happens that some notions they entertain of those philosophies differ so materially from those expressed by so many other Hindus of ancient and modern times. According to the sketch we have quoted, Kapila, the originator of the Sânkhya philosophy, "went the length of denying outright the existence of the Deity." Kanâda, who started the Vaiseshika, "does not seem to have entertained the idea of a self-existent Supreme Intelligence creating the world." Jaimini, the author of the Mîmânsâ, "may be called a second Kapila, maintaining the authority of the Veda, without the existence of Him, without whom no composition can be pronounced to be inspired." Yet Mr. Banerjea himself, as we have seen, tells us that Patanjali, the author of the Yoga philosophy, "rectified" the system of Kapila "by inculcating the existence of Iswara, or God." It would perhaps have been more correct had he said that Patanjali, by way of completing, added some chapters of his own to the Sânkhya-Sûtras of Kapila, and that both works were intended by him to form in reality only one; so much so, that in our best existing manuscripts—and if we are not mistaken in the very commentary itself which Patanjali wrote on his own doctrine—each of the four chapters of his treatise calls itself part of the Sânkhya-Pravachana, which is the title of Kapila's work. Here we must ask, then, those who speak of the "godless" doctrine of Kapila, how it was possible, at any time, and under any circumstances, to look upon the theistic Patanjali as the completer, or even, as Mr. Banerjea calls him, the rectifier of Kapila? Was theism ever a cap which by being put upon atheism completed or even "rectified" it into theistic respectability? Did it not strike Mr.

Banerjea, when passing his judgment on the Sânkhya doctrine, that had it been what he believes it to be, no theistic philosopher or theologian would ever have thought of attaching his tenets to it? and had he done so, that no one, however unskilled in philosophical speculation, would ever have looked upon him as the maintainer of a Deity? Yet the fact is undeniable, that all India calls Patanjali—and rightly so—"seswara," or the believer in a God. Mr. Banerjea, it is true, confesses to find an exact correspondence between Patanjali's definition of God and Kapila's definition of soul; but when he met with this concordance, did it never occur to him that there must have been something in the Sûtras of Kapila to justify a *theistic* writer to complete and rectify it in his own way? So much is certain, at any rate, that the mode in which Mr. Banerjea and Mr, Nîlakantha Sâstrî view the doctrine of Kapila would never explain the fact of a system acknowledged by all Hindu writers to be a theistical one, having become the appendix, nay, part and parcel of the Sânkhya Pravachana.

Before we explain the reasons which seem to us to have misled the judgment of the learned Hindus who descanted on the atheism of Kapila, it will not be superfluous to advert to the inconsistencies implied by the other charges preferred against Kanâda and Jaimini. Both of them are likewise declared not to have entertained the idea of a creator. But Kanâda's system, as Mr. Banerjea, and indeed all authors engaged in matters of Hindu philosophy admit, "is considered a branch of the Nyâya," and that this system is essentially theistical, is a fact which, we believe, requires no proof, since it has never been controverted before. But we confess that of all assertions the strangest appears to us to be that which turns Jaimini into an atheist. His work, the Pûrva-Mîmânsâ, is chiefly engaged in solving doubtful questions concerning the ritual service of ancient India. These services mainly consist in a series of prayers addressed to, and oblations or ceremonies

performed in honour of, fire, sun, Indra, the Aswins, and other beings, real or imaginary, which engrossed the pious imagination of the ancient Hindus, and were looked upon by them either as gods or as personifications of the supreme soul. Should we then not be fairly surprised when we are told that an author who regulated these ritual acts, denied the existence of a God? Might we not sooner expect to find him saddled with a superfluity of that in which he is represented to us to be utterly deficient? That the Purânas and writers hostile to the Pûrva-Mîmânsâ, indulged in accusations of this kind, cannot concern those who have no other object than that of ascertaining the real character of these philosophies.

The truth is, that the ingenious theory which Mr. Banerjea conceived of the rise and progress of Hindu philosophy, and his desire of filling up the historical blank by a plausible and interesting narrative betrayed him into overlooking the facts as they will present themselves to the mind of every one not biassed in favour of conclusions foreign to the subject-matter itself. We quite admit that neither Kapila, nor Kanâda, nor Jaimini, nay, we will in fairness add, Gotama, satisfy us on the nature of God—we quite admit that they leave us as much in darkness respecting Him as any philosophy, but for the simple reason that they meant to be systems of philosophy and not of theology. Even Mr. Banerjea allows one of the *dramatis personæ* of his Dialogues to say that an author has the right of choosing his own subject. And should not the Hindu framers of philosophy have been allowed to confine their research to the investigation of things which they thought were within the domain of human understanding—without soaring too high into regions probably deemed too lofty by them for human thought? In stating at once that the Nyâya, Vaiseshika, Sânkhya, and in some measure the Pûrva-Mîmânsâ are intended to be philosophies, that the Vedânta is theology, and the mysticism of the Yoga

a dreamy speculation, partly theological and partly physical—we have explained the antagonism which existed between these Darsanas severally, for it existed at all periods when philosophy and theology contested each other's rights to the human mind. The theologian who does not care for disquisitions on the atomic theory, or for speculations on matter, syllogism, and language, will spurn the Nyâya, Vaiseshika, and Sânkhya, and ridicule the researches into the eternity of sound; he will find his consolation in the mystical definitions given of God by the Vedânta, and in the prospect held out to him by the asceticism of the Yoga, to free himself from all fetters of thought and common sense. The philosopher, on the other hand, will have more earthly longings and interests; he will study with more satisfaction the state of physical and linguistic science at the time of Gotama, Kanâda, and Kapila—whose system, we may, in passing, remark, became the scientific foundation of Hindu medicine—than the exalted doctrine of Vyâsa and Patanjali—so edifying because so incomprehensible.

This is, in the shortest compass, the history of the ancient philosophy and theology of India. To confound both is to do injury to both, and injustice too. Whether Kapila's, Gotama's, and Kanâda's interest in mundane matters were stronger than that of Vyâsa and Patanjali, because they stood nearer than these to the time of the oldest Upanishads which satisfied theological curiosity; again, whether Vyâsa and Patanjali were more eager to inculcate their notions of God, than to inquire into the nature of matter and the human mind, because the researches of the Nyâya and Sânkhya were diverting too much the national mind from the mysterious doctrine of the Upanishads, we have of course no means of deciding. It may be that the sequence of the systems took place in the order in which Mr. Banerjea so graphically describes it; though we hold that the Jaimini Sûtras, in their oldest form, were the oldest of all, because, strictly speaking, they are neither philo-

sophical nor theological, and though we hold that Patanjali's Yoga marks the transition from the oldest Vedânta to its more modern type. But whichever of these views be right, there is obviously a vast difference between understanding that a philosopher does not choose to enter into a discussion on the nature of God, and asserting that he denies His existence outright. That philosophy may jump from the premise of not knowing to the conclusion of denying, there is evidence enough in the history of philosophy, both in ancient and modern times; but we maintain that the charge of atheism, levelled against these Hindu systems, is not justified; and we quite conceive therefore that, in spite of the little satisfaction they may afford to the theologian, Hindu antiquity could rank them amongst those Darsanas which are not antagonistic to the Vedic creed.

This is as little the place to enter into the merits or demerits of the philosophical theories of ancient or mediæval India, as it was the object of the learned Hindus whose works we are speaking of, to solve the many problems suggested by the writings of their ancestors. We have followed them thus far, because a charge of atheism against some of the most valued productions of their literature involved a similar charge against the numerous class of those of their countrymen who, we understand, are still adherents of the tenets of the Nyâya and Sânkhya philosophies. But though we regret that space and opportunity do not permit us to say more here on a question so vital for a proper understanding of the Hindu mind, we must draw closer to the practical end for which the Dialogues as well as the Rational Refutation have made their contribution to modern researches on Hindu religion and philosophy.

We observed before that the creed of the learned and enlightened portion of the Hindus is essentially founded on the doctrine of the Vedânta philosophy, which they hold to be the truest exponent of the

spirit of the Vedas, more especially in the sense which Sankara, their greatest Vedânta theologian, elicited from the Sûtras of Vyâsa Dwaipâyana. The Vedânta is not concerned in the logical laws of the human mind, nor do its theories on the development of the world possess any scientific interest after the discussions of the Sânkhya and Nyâya, with which they agree to a certain extent. Its chief object is to explain the nature of God, His mode of creating the world, and the relation between both. It teaches the existence of one Supreme Being, that this Being is the efficient and substantial cause of all things, and "that the universe, therefore, is necessarily co-substantial with Him" (or rather with It). For a scientific appreciation of the gradual development of this doctrine, it is necessary to distinguish between the Sûtras of Vyâsa, the commentary of Sankara, and the more recent treatises which may be called the modern Vedânta. But though Mr. Banerjea, with much learning and accuracy, points out the difference which exists between these various periods of the Vedânta, we nevertheless coincide with the view implied by Dr. Ballantyne's observations in his translation of the Vedântasâra, that this difference does not amount to a schism between the modern and the old doctrine, but that the tenet, for instance, of the illusory existence of the world, taught by the modern Vedânta, is merely an evolution of the tenet of the older doctrine, which maintains that the world is real, but a product of ignorance. For the popular understanding of this doctrine, it is sufficient to adduce the words of Mr. Nîlakantha Sâstrî, which, supported by original texts, summarize it in this way:—

"'Brahma is true, the world is false; the soul is Brahma himself, and nothing other.' As expanded and expounded by the advocates of the Vedânta, this quotation imports as follows:—Brahma alone—a spirit; essentially existent, intelligence, and joy; void of all qualities and of all acts, in whom there is no consciousness, such as is denoted

by 'I,' 'thou,' and 'it,' who apprehends no person, or thing, nor is apprehended of any: who is neither parviscient nor omniscient, neither parvipotent nor omnipotent: who has neither beginning nor end; immutable and indefectible—is the true entity. All besides himself, the entire universe, is false, that is to say, is nothing whatsoever. Neither has it ever existed, nor does it now exist, nor will it exist at any time future; and the soul is one with Brahma. Such is the doctrine of the Vedânta regarding the true state of existence; and it is denominated non-dualistic, as rejecting the notion of any second true entity." (p. 176.)

It may seem surprising, at a first glance, that the professors of a creed so sublime and so meek, should not only have carried on hotter discussions on its merits than the adherents of the other schools of philosophy did on the truth of their theories, but also that they should now be denounced by their own countrymen in terms far stronger than those bestowed by them on the other Darsanas.

But on reflection we shall find the one and the other perfectly obvious. No discussion is more likely to grow warm and passionate than one in which both disputants know nothing, and can know nothing, of the subject of the debate, but are trying hard to persuade each other of the correctness of their views. We humbly submit that a definition of the Creator of the World, and an explanation of the mode in which he created it, is a subject of this kind. It is an innate desire of the human mind to know everything, and as long as human nature remains the same, it is certain that man will not desist from the attempt to penetrate mysteries for ever closed to him. We shall always have, therefore, some kind of Vedânta philosophy, and we shall always also enjoy the satisfaction of meeting with clever men who will explain to us that we know no more by it than we did before. But Mr. Nîlakantha Sâstrî and Professor Banerjea want to prove far more. They infer from

the doctrine of the Vedânta, not only that its Brahma is a "non-entity" or "no-thing," and Vedântism therefore atheism in disguise, but that it is "a libel on God," and "a source of immorality."

Now, in spite of the most careful attention we have paid to the arguments of the two learned Hindu Professors, we must entirely demur to the conclusion they have arrived at. Neither the Sûtras, nor Sankara's commentary, nor the Vedânta treatises which a western barbarian may have the good luck of understanding, would suggest to him the views or the accusations contained in the foregoing words.

All we find is that the Vedânta is the sublimest machinery set into motion by oriental thought, with the result of proving once more that the human mind is incapable of understanding God. All the epithets lavished by the Vedânta on Brahma simply show, that one may exhaust the whole vocabulary of human speech without finding a single word which will enlighten us on what He is. But it is likewise clear that the Vedantists felt the most ardent desire to describe the greatness of God—a greatness so great that it overwhelmed their intellect, and ultimately left it destitute of all thought. There is not the slightest cause to find fault with the confession at which they arrive. That "Brahma is incomprehensible," "beyond thought," is the burden of all their songs—after they have displayed the minutest description of what He is. That He is *nirguna*, or void of qualities, is another of their admissions, apparently strange, after the endless enumeration they give of his attributes. But just as after its unsuccessful attempt of "thinking" of Brahma, the Vedânta owns that "Brahma cannot be thought of," it arrives at the result that whatever qualities it may predicate of Him, He has no qualities, be they material or spiritual, in the sense suggested by this word. In short, we neither believe that the Vedânta in calling Brahma "void of qualities," means to declare God a nonentity, nor can we agree with a distinguished European

scholar who presses *nirguna* so hard that it yields the sense of an "immaterial" God. The Brahma of the Vedânta presents itself as the God whom the pious are certain to understand at the outset, and whom they end in finding "incomprehensible." Hence, He is "pure entity," "pure thought," "pure felicity," which words in reality do not explain anything; hence, He has the qualities of "omniscience, freedom, self-existence," and so forth, which description in reality merely reveals an utter vagueness of thought, without conveying any idea of quality at all. It is neither our fault nor that of the Vedânta, when we say that it has not accomplished an impossibility; but it is fair to admit that it has brought on itself the obloquy of the philosopher, by saying so much while telling nothing, and that of the theologian, by confessing to nothing, after having said so much.

A charge of immorality, however, is a far different thing from a charge of ignorance. If the deduction advanced by Professor Banerjea, that the Vedânta doctrine strikes at the root of duty, were founded on fact, the controversy he entered upon with the most enlightened portion of his countrymen would indeed cease to be one of literary consequence only.

"If you say the universe is of the same substance with God," he makes Satyakâma argue, towards the end of the Dialogues (p. 396), "and that the soul is identical with the Supreme Being in the strict sense of the term (excluding the figurative senses of *sampat*, &c.) then you must either unduly exalt the world or grossly degrade the divinity. In either case you strike at the root of *Dharma*, or duty. You cannot, with any fairness or consistency, impose upon persons duties which on your own theory are impossibilities. Whether you acknowledge the universe to be God, or deny the existence of everything that is not Brahma, you can have no law, no ethics, no discipline." The reply given to this syllogism by the second interlocutor is as follows: "We

allow that a man in a state of ignorance is bound by laws, rules, and duties." Whereupon the first returns to the charge: "You allow that which your better sense contradicts; you hold that in truth there can be neither law nor lawgiver. The bolder spirits among you glory in denying injunctions or prohibitions."

We do not know who these bolder spirits are, whom Mr. Banerjea is alluding to, but we do know that they are not to be found amongst the authorities of the Vedânta writers. We have, then, his own confession, that experience does not bear out the conclusion which, he says, *must* result from a belief in the Vedânta tenets, or we are almost afraid to conclude, *ought* to result from it, if the working of the Vedânta were left at his discretion and will. For, according to him, it is the *better* sense of the Vedantists which contradicts their moral practice, the latter being an inconsistency. That a doctrine, possibly good, may, through perversion or misunderstanding, become the source of evil, is sufficiently shown by the political and religious history of mankind; but that a doctrine essentially wrong and practised in its wrongness, should, out of sheer inconsistency, bear good and moral results, is a novelty we had yet to learn.

But though fully aware of the weak parts of the Vedânta, we are spared the necessity of elucidating the moral and ethical greatness of this system, for this task has been fulfilled by a western system of philosophy which occupies a foremost rank amongst the philosophies of all nations and ages, and which is so exact a representation of the ideas of the Vedânta, that we might have suspected its founder to have borrowed the fundamental principles of his system from the Hindus, did his biography not satisfy us that he was wholly unacquainted with their doctrines. From this philosophy the Vedântists might learn what their philosophy really is, *δυνάμει*, as Aristotle would have said, and what it might have become, had it been stripped of all its cos-

mogonic vagaries, which, however, do not affect its vital part. We mean the philosophy of *Spinoza*, a man whose very life is a picture of that moral purity and intellectual indifference to the transitory charms of this world, which is the constant longing of the true Vedânta philosopher.

That the philosophy of a scholar who lived two hundred years ago must possess a value different from that of a philosophy of ancient India requires no remark; but comparing the fundamental ideas of both we should have no difficulty in proving that, had Spinoza been a Hindu, his system would in all probability mark a last phase of the Vedânta philosophy.

Without showing that the charges preferred by Mr. Banerjea and Mr. Nîlakantha Sâstrî against the Vedânta have been repeatedly levelled against the philosophy of Spinoza, we content ourselves with quoting a few critical observations on his system which will perhaps best dispose of the cry of atheism, pantheism, and immorality raised against the system of Vyâsa. They are taken from the works of one of the greatest philosophers of our time, of one who was by no means an adherent of Spinoza's philosophy. In his history of philosophy, Hegel says :—

"Spinozism is reproached with being atheism; for God and the world being one, and undivided, Spinoza makes nature God, or God nature, so that God disappears and nature alone remains. Yet Spinoza on the contrary does not *oppose* God to nature, but thinking to existence; and God is the unity, the absolute substance, in which the world disappears. The adversaries of Spinoza assume the air of being very much concerned about God, but in reality they are much concerned about what is perishable, about their own selves. . . . . . . Atheism is declaring arbitrariness, vanity, the transitoriness of the world to be

the highest principle. Such is not Spinoza's principle. According to him God is the only substance; nature is merely modality. Spinozism is therefore *akosmism*. . . . . Those who charge him with atheism maintain the reverse of that which is true; there is too much of God in his system. 'If God (they may say) is the identity of spirit and nature, nature—the human individual, is God.' Quite right; but they forget that in God they have ceased to exist independently. They can never forget that they are nothing. It follows, therefore, that those who traduce Spinoza in this way, do not mean to preserve God, but that which is perishable, the world. They are offended at the world not being allowed to be a substance. They are offended at their own annihilation. . . . .

"Spinoza says: 'Our happiness and freedom consist in constant and eternal love of God;' . . . . 'the more man comprehends the nature of God and loves God, the less he is under the influence of evil passions and the less he fears death." Spinoza demands to this end that man should acquire the true mode of comprehension; he wants him to view everything *sub specie æterni*, in absolutely adequate notions; viz., in God. Man should refer everything to God, God being one in all. Thus Spinozism is akosmism. There are no morals more pure and more elevated than those enjoined by Spinoza; for he wants human action to be regulated merely by divine truth. . . . . . . 'All ideas are true, inasmuch as they are referred to God.'"

We have quoted enough to convince the learned Hindus that every one of Spinoza's sentences might be supposed to have been literally borrowed from the system they charge with degrading God and elevating the world. They will perceive that one of the greatest thinkers of our age judged differently from them on the morality of a system which compels man to view everything in the light of God.

Since the philosophical systems which called forth the foregoing remarks, appeal for the soundness of their doctrine to the theological treatises called Upanishads, which are looked upon by many ancient writers as part of the Vedas, and since these, in their turn, are believed to be inspired by the deity, Mr. Banerjea reviews the arguments brought forward by Jaimini, Vyâsa, Gotama, Sankara, and other Hindu divines, for the purpose of establishing the authority of the Veda on the ground of its divine authorship, and shows that they cannot bear the test of logical reasoning. As the Vedas have not been revealed to us, and as we could have no hope of becoming Brahmins even if we "surrendered our private judgment" in favour of them, we might have fully enjoyed that mental pleasure which is always derived from soundness of logic and readiness of wit, had we not found that the whole controversial journey of the learned Hindu was merely undertaken to end in the haven of another revelation. We must confess, therefore, the disappointment we have felt. It is a political maxim of constitutional bodies, a maxim acquired by dint of long experience and preserved with the utmost care, not to allow the name of the sovereign to be drawn into political debate. For nations have learnt that it is unwise to saddle the sovereign whom they want to make inviolable, with errors and shortcomings that may belong to the acts of his ministers. But though the political animal seems to be capable of an increase in wisdom, the religious man evidently remains stationary. Thousands of years have engraved their religious experience in the annals of history, religion has succeeded religion, the followers of each have invariably maintained theirs to have come from above, and controversialists have mutually picked the most damaging holes in their respective revelations. Prudence alone, one might have supposed, would at last have taught theologians not to expose the God whom they adore to the chance of being held responsible for those errors which our

neighbours are always so much keener than ourselves in discovering. Kings whom nations might if they pleased make answerable, are raised beyond the reach of responsibility; but God, whom no one can make responsible, is constantly dragged down by the theologian into his little debate. If Jaimini and his ancient co-religionists set up an elaborate defence of the *divine* authorship of their Veda, we may excuse them at least for want of that experience which we now possess; we may allege in their favour also that they maintained the inspiration of their sacred books, not against other inspirations, but against unbelief. But Mr. Banerjea is not satisfied with merely enlightening his countrymen on the fact that Brahma did not write or dictate, or brood the Veda, he must on his part step forward, not only with a superior religious work, but with one inspired by God. Were we not deeply convinced that he is in earnest, we should have really thought that he was hitting hard at the pretence of the Vedic inspiration, merely in order to arm his countrymen with the most logical weapons against all the arguments which may be adduced for the inspiration of the Bible. For his attack on the Hindu theories is so wonderfully strong, and his defence of the Biblical revelation so wonderfully weak, that a Hindu by comparing both sides will probably feel farther off than ever from embracing the particular revelation which he recommends. Or does he seriously mean that he can grind the intellect of his nation, blade-like, sharp on the Vedic and obtuse on the Biblical side? Did he not become aware, were it only by criticising the religion of his ancestors, that, just as fire and water require an intervening substance to become harmless to one another, reason and faith can coexist only on the condition that a proper consciousness of the limits of the human intellect is powerful enough to bind them over to keep the peace? Did his method of destroying the Brahminical faith in the divine inspiration of Vedas not prove to his satisfaction that this intervening power

being withdrawn, either reason evaporates faith, or faith extinguishes reason ?

We are far from being disposed to enter here into a discussion of that portion of Mr. Banerjea's Dialogues in which he attempts to *prove* to his countrymen the divine inspiration of the Old and New Testament, and, on this score, to recommend it to them as the source of their future creed. But we cannot refrain from a remark which he has forced upon us. Whoever reads for a first time the evidence he brings forward in favour of the inspiration of the Scriptures will necessarily think that his statements concerning the creation of the world, the prophecies, miracles, and so on, are incontrovertible and uncontroverted facts. It would never occur to such a reader that there existed a very voluminous, very learned, and also a very pious description of works amongst them, in which not a single argument of Mr. Banerjea's has been left unobjected to. He would never dream that the subject which the learned Hindu lays before his countrymen with an air, and no doubt with a conviction, of utter finality, is to the minds of a large class of Christians, to say the least, as doubtful as possible, and as unsettled as any question can be. We cannot approve, therefore, of the silence he has kept on this momentous point; for any one who is asked to exchange his creed for another has a right to know all the particulars of the bargain he is desired to make; and his acquisition will most likely prove a very undesirable one if he should find hereafter that the knowledge afforded him was exceedingly incomplete. Mr. Banerjea might have refuted, of course, if he could, all the charges preferred against the inspiration of the Bible, and shown that their extreme similarity to the charges he preferred against the inspiration of the Vedas is purely apparent or accidental; but it is certain that in dealing with this part of his subject as he has done, he has failed both in justice to his countrymen and in prudence as regards the cause he defends.

We will give an instance or two of the method which Mr. Banerjea adopted in persuading the Hindus of the inspiration of the Scriptures, after he had exerted all his energy, and availed himself of all his scholarship, to sharpen their logical powers for the dissection of their philosophical theories and their notions of God.

One of the most delicate points in the Old Testament, it is well known amongst western theologians, is the account given there of the act and process of creation. Science has proved that the latter is contrary to facts; and theological writers who perceive the inexpediency of allegorizing, or the danger of equivocating, have generally the discretion to say as little about the matter as possible, especially in connexion with the topic of inspiration. For as the production of the universe out of nothing is, to say the least, incomprehensible by human reason, while its creation out of pre-existing matter is a position not countenanced by the Bible, the ablest writers generally agree to be silent on the subject, and to avow that they do not understand how the world was called into existence. But Satyakâma, who had triumphantly disposed of the Sânkhya and Vedânta doctrine, expresses himself to Agamika on this subject as follows (p. 11):—

"As regards the external universe, the Bible tells us 'In the beginning God created the heavens and the earth,' thus showing that the Nyâya, Sânkhya, and Vedânt were all right and all wrong. They rightly apprehended the truth, as regarded their opposition to each other's systems. The Vedânt was right in its protest against the eternal atoms of the one, and the unintelligent creative *prakriti* of the other; and the Nyâya and Sânkhya were equally right on their part in inveighing against the doctrine of the world's identity with God. But they were all wrong in regard to their positive doctrines—the Nyâya in its theory of eternal atoms, the Sânkhya in that of creative Prakriti,

and the Vedânt in its denial of a duality of substance. The universe is neither an illusion nor self-formed, but was called into being out of nothing by the one only, Eternal, and Supreme Intelligence, the author of all things in heaven and in earth."

And Agamika, who has nothing to say on the "nothing," may well become speechless when he is further told that "*all perplexing difficulties are thus cleared.*"

Another weak point which, in the interest of their faith, is generally surrendered by the most learned, and, we repeat it, by the most pious, writers of Biblical disquisitions, as evidence for the inspiration of the Bible, is the question of prophecies and miracles. It is one of the strongest weapons in the armory of Mr. Banerjea. And after he has ridiculed the idea of the Upanishads—a supposed portion of the Vedas—being invoked by the Brahminical believer in testimony for the authority of the Vedas—since, as Sâyana says, "not even a dexterous man can ride on his own shoulders"—he makes Satyakâma explain to Agamika the mystery of the Trinity in the following manner (p. 522):—

"(The Christian religion speaks) not of three Gods nor a plurality of Gods, but a plurality of persons in the unity of the Godhead. This doctrine you can find no great difficulty in acknowledging, (1) because it is inculcated in the Bible which, as we have seen before, is attested by miracles and prophecies: and (2) because the Brahminical sâstras themselves bear some confirmatory testimony to its truth. (Agamika asks, 'how,' and is told), the Brahminical sâstras speak of a triad of divinities, Brahmâ, Vishnu, and Siva. They speak of it, as *one form and three gods*. They tell us that they are mystically united in One Supreme Being. But the doctrine appears incongruous, and quite out

of place in their system. The gods are frequently represented, not as different personal manifestations of the same Godhead ought to be, but as impure characters and antagonistic gods, wrangling and fighting with one another. Siva fights and punishes Brahmâ, and Vishnu humbles Siva. The votaries of Vishnu anathematize those of Siva, and the votaries of Siva anathematize those of Vishnu. And all three are, again, pronounced to be transient and perishable. The doctrine represents an idea which is quite foreign to the Brahminical system, and we can only unravel the mystery by supposing it to be a relic of some primitive revelation, of which a distorted tradition had probably reached our ancestors."

Here Mr. Banerjea himself allows Agamika, in reply, to exclaim, "These appear to be strange and novel views of things." And we cannot but join with Agamika most heartily in his astonishment, though we might have wished he had known a little more of the triad Brahmâ, Vishnu and Siva, to be spared the confession which he subjoins, that he "certainly cannot gainsay them."

There is another serious perplexity into which our learned authors must be aware that they will throw even those Hindus who may be clever enough to overcome all these difficulties, but it has as little been removed by them as indeed any difficulty which besets the solution of the religious problem in India. Their object, as we have seen, is to persuade their countrymen to embrace the Christian religion; but they have neither explained to them what the Christian religion is, nor where it may be found. Any Hindu who follows the deductions of Mr. Banerjea would simply infer that there is but one Christian religion, which a devout student of the Bible might easily acquire from a perusal of this sacred book. Let him descend, however, from the region of abstraction into that of reality, and he will soon discover the

endless variety of opinions which may be founded on the apparently so intelligible scriptural text, and he will soon learn that so far from this being a mere possibility, hundreds of creeds have sprung up from this same scriptural soil, every one of which claims to be in exclusive possession of true Christianity. And if he be disposed to investigate historically the mutual relation of all these creeds, he will find that their difference is so essential that it was strong enough to perpetuate the most inveterate animosities, and to result in wars the like of which cannot be traced in the history of any other creed.

We have no desire to enlarge upon this theme, for we have said enough to explain why we hold the solution proposed by Mr. Banerjea to be an impossibility. When the Royal proclamation combined with a profession of its reliance in the truth of Christianity, a solemn injunction of toleration for the religions of India, its wisdom, by expressing the result of matured experience and profound thought, showed itself far superior to the zeal, however well intentioned, which believes that human happiness can be fashioned according to one mould. Attempts of conversion are too frequently made without examining the limits within which they are possible, and the result in which their momentary success may end. If a man derives his religious views from his own individual information, or from sources which are void of authoritative influence, he may yield them to the views which are of a higher range without causing injury to the nobler part of himself. But if the creed of an individual is founded on texts held sacred and authoritative, it is a national creed; and no individual can abandon it without severing himself from the national stem; no nation can surrender it without laying the axe to its own root. For a religion based on texts believed sacred, embodies the whole history of the nation which professes it; it is the shortest abbreviation of all that ennobles the nation's mind, is most dear to its memory, and most essential to its life. No religion

has better illustrated this truth than the religion founded on the Bible. It could be, and was, successfully introduced amongst all nations which possessed no texts supposed to be divinely inspired, and therefore of general authority, and whenever a nation possessing merely the semblance of such a text, adopted it, it thereby decreed its own end. The Romans and Greeks when becoming Christians, ceased to be the continuation of the classical Romans and Greeks, in history, in literature, in character. Their political importance, based on the conditions of their past, was brought to a close, and they had to grow into another nationality. Christianity itself is not one single form of religion, for the character of the nations which adopted it compelled it to become English, or German, or Russian, or Italian, or any other Christianity as the case may be; each so different from the other, that only conventional politeness can comprise these various and historical forms under one common name. But the condition under which this religion introduced itself into the countries of Europe, was always the absence of a book ascribed to divine authorship. When Mr. Banerjea speaks of the Jews, he has chosen an exact counter instance which goes far to prove that even a people without land, without any history which, since they are scattered over the world, can be called their own,—that a people exposed to all the horrors of persecution and all the allurements of seduction, did not, and does not, espouse that very religion which exercises the most powerful influence on its actual destinies, and which it even supports and favours amongst those who profess it. The Jews do not become Christians simply because they believe that their Testament is a sacred book.

But the charm which apparently inheres in that word is by no means a mysterious one. There was and there is no book considered sacred, unless it contains a stock of that which the nobler part of human nature, everywhere and at all times, acknowledges to be *good*. It is quite im-

material whether this stock is more developed or less, as long as it is capable of development; for at different periods new branches will proceed from the same stem, and they will enjoy the same reputation of divine origin as the old stock. When Mr. Banerjea discovers that the Hindu Triad resembles the Christian Trinity, his trover may cause the hair of some good Christians to stand on end, but it nevertheless shows that whoever requires a belief in the Trinity, may even as a Brahminical believer gather it from his own sacred texts. And that the Vedas contain sentiments and injunctions as elevated and conducive to the moral excellence of man as the Bible itself, we might learn from the testimony of Mr. Banerjea's Dialogues themselves. He alleges, it is true, that Vedic passages of this kind are sometimes not unalloyed with statements and descriptions which may impair their exalted quality. But he would have been less hard on the Vedas, had he known that there have been many writers who from a feeling of hostility as great towards the Bible, as his is for the Vedic inspiration, have culled from the scriptural texts, narratives and injunctions which Mr. Banerjea would be the last to recommend as typical for that which in our age we define as good, moral, or sublime. The Hansa bird is described by the Hindu poets as possessing the faculty of separating milk from water. A sacred text, whatever it be, requires a just man to be such a Hansa; but it requires him also to be the Hansa of the Upanishads, which being the sun, would be able to discover that all those objectionable passages in the Vedas or in the Bible were never meant, when they were written, to imply those conclusions which now the Christian may turn against the one and the Brahmin against the other.

We have been carried, however, with these remarks to the point where we cannot shrink from expressing the views which we entertain of the duties of the Brahminical Hindus of our days. We need not emphasize more than we have already done, that we reject as unwise

and unpractical any attempt to persuade them to become Christians or to adopt the Biblical Scriptures as their spiritual code. We want them to become a nation worthy of their ancestors and worthy of the great rôle, which in ancient times they have acted in the history of the human race, and we are satisfied that they cannot regain that position by breaking the springs of their life, and by exchanging their own religious uncertainty for that of any other creed. It is necessary, however, to this end, that they should realise the condition in which they are. We need not prove to them that the minds of the enlightened portion of their nation are wholly estranged from the sectarian worship as it is practised now, but we could satisfy them that they are utterly remiss in examining where the root of the evil lies. Every Brahminical believer, if asked, will tell us that the mode of his worship is founded on the Vedas. He refers us, it is true, occasionally to the Purânas and Tantras, but he himself admits that these works have no authoritative power unless they can prove that the tenets they contain are drawn from the Vedic source. This proof is never offered. On the other hand, a recent work, which, from the impartial spirit in which it is composed, and from the vast learning on which it rests, cannot too strongly be recommended to the Brahmin, we mean the Original Sanskrit Texts of Mr. Muir, enables us to say that its contents may enlighten the Hindu worshipper on the real relation between the principal gods of his Pantheon and the Vedic belief.

The pivot, then, on which all religious questions of India turn, is and remains—the Veda. Philosophers and non-philosophers, Vishnuits and Sivaits, all echo the word Veda; and we must once more therefore raise the question, What is the Veda? since the answer we have to give to it—though here necessarily unsatisfactory and incomplete—may induce the learned Hindus to consider whether it may contribute to a solution of their religious difficulties or not. We have quoted above

the short definition which Mr. Banerjea gives in his Dialogues of what is usually meant by Veda. It is, as he says, a collection of "Mantras and Brâhmanas. The former may generally be considered devotional, the latter ceremonial and dogmatic." It is likewise understood now to embrace four distinct works, each called Veda, and each possessing its own Mantras and Brâhmanas, viz., the Rig-Veda, the Yajur-Veda, the Sama-Veda, and the Atharva-Veda: and the term Veda is ultimately applied to the Upanishads which are appendices, as it were, to each of these Vedas respectively, and contain explanations of the nature of God, the creation of the world, and other matter, which for brevity sake may be called theological or theosophical. Thus the Brahmin who speaks of his Vedic religion, means the religion founded on Mantras, Brâhmanas, and Upanishads of these Vedas. This creed, however, is binding on his conscience only because the Veda was inspired by the deity, and existed from eternity; and that such was the case he holds on the statements and arguments of his oldest divines. No Brahmin will dispute therefore the conclusion which follows from these premises, that no tenet or worship would be obligatory on him, which is founded on other works than the Veda, or on passages which cannot be referred to it. Thus, we may adduce, for argument's sake, that though the standard works on medicine, music, and archery are also styled Vedas (Ayur-Veda, Gandharva-Veda, and Dhanur-Veda), no Hindu would dream of looking upon them as sacred records, although they bear this venerable name.

Yet here we have to advert to important inconsistencies. One of the four Vedas, now called canonical, the Atharva-Veda, was wholly unknown to the oldest Hindu divines, probably even to Manu; they merely speak of the "threefold knowledge," viz., the Rig-, Yajur-, and Sâma-Veda. It is obvious therefore, that the Atharva-Veda need not be binding on any Hindu, for it cannot have existed from eternity, in

the sense of their own writers. And the fate of this Veda is, as a consequence, necessarily shared in by the Upanishads attached to it. But there is no necessity, indeed, to single out so prominently the Upanishads of this Veda, for, to the best of our knowledge, there is no ancient authority which ever ascribes any Upanishad to *divine* authorship. These treatises doubtless are looked upon with the greatest reverence and awe: they are held to be the truest exponents of Vedic thought; they are, in short, the standard works of Hindu theology; but just as little as any of the six philosophies is invested by the native mind with superhuman authority, as little are the Upanishads ever placed on the same level with the Mantras and Brâhmanas. Nor can we stop here.

The Yajur- or Ceremonial Veda, emphatically so called, survives now in two different recensions, the one called Black and the other White. There is an ugly legend concerning the origin of this division; but whatever be its worth, it clearly proves that the Black Veda is older than the White, and the researches of a recent work—which might have added other evidence to that given by it—have shown that the White recension of this Veda did not yet exist at the time of the grammarian Pânini. Certain it is that the oldest writers on the Mîmânsâ—the system of philosophy which, as we have seen, is considered so eminently orthodox—take no notice of it. No impartial Brahmin can therefore deny that also the White Yajur-Veda need not, unless he pleases, be binding on him. But is there no evidence at all that, even in the remaining portions of these Vedas, some portions cannot have existed from eternity? In the excellent work we have already mentioned, Mr. Muir has quoted several instances which show that the Rishis or "seers" of the Mantras now and then confess not to have received their hymns from above, but to have "made" or, as the text says, to have "fabricated" them; moreover, that other Rishis speak of "old" and "new" Rig-Veda hymns, thus pointing to a

succession in time which, at any rate, does not bespeak the eternity of the "new" hymns. In short, however orthodox a Hindu may be, he must bow to the fact that the sacred canon of his Veda was not at all times the same. Assuming portions of it to be older than eternity, the evidence tendered by some of his greatest authorities tells him in the plainest manner that some portions at least have a beginning in time, and worse than that, have been written by mortal men. Which of these portions belong to the former and which to the latter category, it is not for us to decide, even if the day of Vedic chronology had already dawned on Sanskrit philology. For not only do we hold that, for their own religious purposes, the Hindus themselves must settle this point, but also that this very chronological uncertainty is providential for their own good. Jews and Christians had not a little to suffer from the inconvenient fact that the canon of their Scriptures was settled at so early a date as to preclude the possibility of adapting them at later periods by a process of elimination to the progress of more enlightened ages. The Brahminical Hindus are better off in this respect than ourselves. That which is deplorable from a scientific point of view, may become a boon to them if viewed in a religious light. Let them decide therefore, according to their own knowledge and requirements, and with the assistance of the results already obtained by western researches, which portion of their Veda dates from eternity, or, to speak in our own language, may be held by them to be canonical and binding on their conscience, and which not. But let them not try to settle so momentous a question privately and individually, for such a course would likely end in no more than a literary controversy. The history of other religious communities points out the mode which they may advantageously adopt. Buddhists and Christians settled their difficulties in synods or councils, composed of their most learned and influential men, and such councils met as often as religious problems had become so

serious or troublesome as to require a solution by common consent. If the Hindus followed their example, they would not only remove interior disorders which exist in their religious body, but by forming a canon of sacred texts, essentially Vedic, prove to the world at large that they may possess one containing doctrines and sentiments as good, moral, and elevated as that of any existing creed.

We do not anticipate that such a result can be obtained at once. The question of representation in such a council might, for instance, be a preliminary problem fraught with much difficulty, which they would have to solve first. But we hold that it may be taken up with much probability of success, seeing that the analogous problem within the sphere of the political representation of India seems to progress towards a solution by means of the energy displayed by their native associations.

But, whatever these difficulties for the moment be, let the end be kept constantly in their mind, and let it be gradually approached by the formation, *for this purpose*, of learned societies in the different Presidencies, with the view of communicating with one another on their religious views, and gradually extending their spiritual influence over the whole nation. By doing so they would also pay a debt to their ancestors, which they have been sadly remiss in discharging for centuries back. As orthodox Hindus they are aware that the sons inherit the property of their fathers only on the condition of their fulfilling the ancestral rites. The modern Hindus claim the spiritual inheritance of their ancestral lore; but with a few honourable exceptions they have discontinued that sacrifice, the performance of which alone would entitle them to this inheritance, the sacrifice which they call themselves "the sacrifice in honour of Brahma," that is to say, the study of their own ancient literature—("adhyayanam brahmayajnah")—a study which not only their oldest lawgiver, but also the Chhândogya-Upanishad, calls one of the three chief duties of man. So slender indeed is the thread by

which the remembrance and the knowledge of their own sacred works is suspended in the minds of the present generation, that they may well compare it to the blades of grass by which, in one of the legends of their Mahâbhârata, the manes of the poor Rishis Yâyâvaras were suspended in a cave, trembling for fear of falling into eternal perdition, through the remissness of Jaratkâru, their undutiful son. But this legend may teach them also that it is never too late to avert even an imminent danger by a proper consciousness of what every individual of a nation owes to his forefathers and to himself. We need not describe to them the deplorable condition into which—if we except a few principal colleges—the study of Sanskrit, their sacred language, and of Sanskrit literature, has been allowed to fall through their own fault. It is impossible to calculate the immense loss which their literature has suffered through the indifference with which it has been treated by them for centuries. A vast number of their most celebrated works are probably lost beyond recovery; and had it not been for the exertions of English scholars this loss would be greater still than it is now. The sense of their religious duty, to which they have become roused by the enlightened portion of their own community and the judgment pronounced on them by the professors of other creeds, we hope will now be strong enough to convince them that it is time to remove this stain from their national dignity. They should take energetic steps to save from destruction all that bears testimony to their intellectual greatness; they should collect all over India the remnants of their ancient, and the products of their modern, literature; they should found libraries, seats of learning, and museums, to show to the world at large that by respecting themselves they have a claim to the respect of others. Synods are the means by which their religious difficulties may be settled; but synods themselves cannot properly do their work unless they are supported by that culture of the mind which bespeaks the vitality of a nation.

ARTICLE IV.

THE INSPIRED WRITINGS OF HINDUISM.

1. *Rig-Veda-Sanhitâ; the Sacred Hymns of the Brahmans, together with the Commentary of Sâyanâchârya.* Edited by Max Müller, M.A. Volume IV. London: 1862.
2. *Taittirîya Brâhmana of the Black Yajur Veda, with the Commentary of Sâyanâchârya.* Edited by Rajendralala Mitra, with the Assistance of several learned Panditas. Vol. II. (In the "Bibliotheca Indica," published under the Superintendence of the Asiatic Society of Bengal.) Calcutta: 1862.
3. *Original Sanskrit Texts on the Origin and History of the People of India, their Religion and Institutions.* Collected, translated into English, and illustrated by Remarks, by J. Muir, D.C.L., LL.D. Part IV. London: 1863.
4. *A Contribution towards an Index to the Bibliography of the Indian Philosophical Systems.* By Fitzgerald Hall, M.A. Calcutta: 1859.
5. *Report of the Mahârâj Libel Case.* Bombay: 1862.
6. *The Mahârajâs.* By Karsandass Mooljee. Bombay: 1861.

The beginning of the year 1862 was marked by an occurrence of great importance in the social and religious history of India. Little notice was taken of it by the European press, and, to superficial observation, it has floated away on the current of contemporary events. We will

briefly recall it to the memory of our readers. In a native newspaper, *The Satya Prakâsa*, that is, "the Light of Truth," published at Bombay, there appeared, on the 21st October, 1860, an editorial article headed "The Primitive Religion of the Hindus, and the present Heterodox Opinions." It began with stating that the Purânas and other sacred works of the Hindus predict the rise of false religions and heresies in the Kaliyuga, or the present mundane age, which according to Hindu theory dates from 3101 B.C.; it then went on to relate that the religion of the Vallabhâchâryas is one of these heresies, and wound up by emphatically calling on the Mahârâjas or high priests of that sect to desist from the propagation of their faith until they had renounced the gross immoralities countenanced or directly inculcated by it.

The sect in question, we may remark, was founded by a Brahmin, Vishnu-Swâmin, but derives its name from its principal teacher and saint, Vallabhâchârya (or the spiritual teacher Vallabha), who was supposed to be an incarnation of the god Vishnu, and lived towards the end of the 15th and the beginning of the 16th century of our era. Its doctrinal tenets are a fantastical mixture of pantheism and mysticism, and its worship is that of Krishna, one of the incarnations of the god Vishnu, particularly in his juvenile forms, and commemorating his amorous sports with the cowherdesses amongst whom he passed the earlier stage of his earthly career. There is this remarkable feature, however, about this sect, as compared with other Hindu sects based on Brahminical tradition—that its teachers, rejecting abstemiousness as not conducive to sanctity, enjoin the worship of the Deity, not by means of mortification, or an austere ritual, but by indulging in the pleasures of society and the enjoyment of the world.

The members of this sect are very numerous and opulent, the merchants and bankers, especially those from Gujarat and Malva, belonging to it. Their temples and establishments are scattered all

over India, and their spiritual chiefs are the supposed descendants of Vallabha, veneration being paid to them, not on account of their learning or piety, but for their family connexion with that arch-saint of the sect.*

One of their actual chiefs—now styled Mahârâjas—the Mahârâjas Jadunathjee Brizrattanjee of Bombay, felt highly incensed at the article we have alluded to. The respectable journal in which it was contained had imparted to it more than the ordinary weight of a controversial production of the native press, and the name and position of its author, Karsandâss Mooljee, renowned amongst his countrymen for his undaunted zeal in the cause of their social and religious reform, had impressed on it the stamp of purity of motive and a strong presumption of trustworthiness. Had the Mahârâja vented his indignation by assembling the members of the caste to which the writer of the article belonged, and had he made them excommunicate the obnoxious reformer —as with his social and spiritual influence he could doubtless have done—it is more than probable that the world at large would have heard nothing of the actual state of this Vallabhâchârya creed, and that native apathy—in this case, as in others—would have little heeded the appeal made to their better selves. But the Mahârâja acted otherwise, and India, we hope, will have to thank him for the course he took. He sued the writer of the article in the Supreme Court of Bombay for having "caused to be printed and published a false, scandalous, malicious, infamous, and defamatory libel" on the religion of his sect in general, and on the conduct and character of the Mahârâjas in particular.

Hence ensued a spectacle which is unique in the history of India. An English tribunal had to decide whether the charges made by the editor of the *Satya Prakâsa* were founded in fact and justifiable on public grounds. It was nominally a question whether Mr. Karsandâss Mooljee was a libeller and hould be mulcted in the amount of 5000*l.*, the damages

* See H. H. Wilson's Works, vol. i., p. 119, ff.

laid, but in reality, whether the actual religion of the Vallabhâchârya sect ordained those immoral practices which the defendant had imputed to it, and whether it was, or was not, in keeping with the spirit of the ancient Hindu faith, "one of the different ways," as was alleged in favour of it, "into which the courses of the Vedas and Purânas have diverged, just as some one goes from the gates of the fort to proceed to Walkeshwar and some one to Byculla."

The Spirit of History seems to have had one of his turbulent fits of impatience and weariness. He must have grown tired at the slow pace of reforming benevolence and antiquarian research; for, as we see, he suddenly called upon Justice to engrave with her sword on the skull of a religious community that which science with her pen had not yet been able to write into its intelligence.

The task of Justice was, we must acknowledge, well performed by her substantially acquitting the defendant in the suit: her verdict is recorded in the elaborate and lucid judgment of Sir Matthew Sausse and Sir Joseph Arnould, and it henceforward belongs to the annals of the judicial history of India. But though twenty-four days of a rigidly scrutinizing trial is no mean amount of time to be allotted to the settlement of a legal point, though the light thrown by it on the social and moral condition of a large and interesting portion of the Hindu community will advance our knowledge of modern India, we cannot share in the sanguine hope of those who entertain the belief that this trial has materially advanced the solution of the problem of the religious future of India. That the facts disclosed by it may become a stimulus to rouse the activity of the indolent, and to impress every thinking Hindu with a sense of his personal duty towards his nation at large, we are willing to admit; but we do not believe that it will bring us nearer the desired end, unless the real question at issue in the trial and its true importance be fully understood by the followers of the Sâstras.

That importance does not lie in the startling disclosures which the world has received concerning the doctrinal immoralities of the present Vallabhâchârya sect and its leading priests. Disclosures like these need as little surprise us as attract our attention on behalf of their novelty. Every one, however slightly acquainted with the history of religions in general, knows that there is no religious stem without its parasitical priesthood sucking its sap, if allowed to cling to its bark. Who will denounce Christianity because Mormonism has sprung from its soil? or who will question the morality of its tenets, because, so recently as twenty-seven years ago there existed, at Königsberg, in Prussia, the sect of the *Muckers*, which held its conventicles for the procreation of a new Messiah, and, though yielding nothing in mysticism and lewdness to the sect of the Vallabhâchâryas, was so highly respectable as to count amongst its members some of the first families of the land?

To lay stress on aberrations of this kind would be unjust as well as unwise. But the very comparisons we have alleged involve the point on which we *must* lay stress. Mormonism must hide its profligacy in the deserts of America, and a few Prussian police constables proved strong enough, with the applause of the good people of Königsberg, to check the new Messiah in his career of incarnations.

The Vallabhâchârya creed, however, continues to flourish all over India, and to feed, we believe, its fourscore of saints; no professor of it is looked upon by a Hindu as a heretic, with whom it is not permissible to associate; no Brahmin ceases to be one, though he eat the dust of the feet of the Mahârâja. Do, then, the Hindus really believe that this creed is a true Hindu creed? Or—since there is no necessity for singling out this special sect from among numerous others, the practices of which would startle us as much as those of the followers of Vallabha—do the Hindus really assume that all these sects are healthy

branches of their original religious stock? and, as to all appearance, their reply is in the affirmative,—on what grounds does the assumption rest?

Some answers to those questions have been given by "The Mahârâja Libel Case;" and because this case, if stripped of its specialities and personalities, is in reality no other than the case of Hinduism itself as it now stands, we will once more cast our eyes on it.

The defendant in that trial had charged the sect of the Mahârâjas and their chiefs—to use his own words—with "perpetrating such shamelessness, subtilty, immodesty, rascality, and deceit," as have never been perpetrated by other sectaries; and, convinced that the committal of such acts could not be countenanced by the true Hindu faith, he accordingly stigmatised the persuasion of the Vallabhâchâryas as a "sham, a delusion, and a heresy." The plaintiff, on the other hand, stoutly denied ever having been "guilty of heterodox opinions in matters connected with his religion, or of the offences or improper conduct imputed to him."

The denial, we may see at once, does not meet the charge. For, supposing the life of the Mahârâja had been as spotless as one could desire, it does not follow from his words that he had abstained from licentious acts, *because* his religion declared them to be sinful; nor, *if* his religion enjoined or encouraged such acts, does it necessarily follow that it must be a heterodox faith; since, for aught we know, it might derive its tenets from the old and authoritative Brahmanic source. It is true that by his evidence the defendant fully proved that acts of the grossest immorality were not only committed by the Mahârâjas, but committed by them with the full knowledge and connivance of their followers; it is likewise true that he proved that "the Mahârâjas are considered by their followers as incarnations of the god Krishna," that "their managers give the sectaries water to drink in which the

Mahârâja had bathed;" and that "drinking the nectar of the feet, swinging, rubbing, and bathing the body with oils, or eating the dust on which they have walked, are not practised towards the Gurus of other sects." But evidence like this obviously does no more than establish the fact, that such customs are the actual practices of a particular sect and of certain individuals professing to be their high priests and chiefs. It will induce no one to charge the faith of these people with inculcating these practices, or to say whether they are or are not in harmony with the ancient religion of the Hindus, the supposed foundation of all present creeds, unless further evidence be produced to that effect from the sacred works of both.

What means, then, did the defendant and the plaintiff possess, the one to denounce the heresy of the Mahârâja sect, the other to vindicate its orthodoxy?

The text-books of the sect are the works of its principal teacher, Vallabha; they are all written in Sanskrit; and a leading commentary on one of these works, by Gokulnâth, a grandson of Vallabha, is likewise written in Sanskrit. Some of these works are translated in the Brij-Bhâshâ language; but, as the Mahârâja very properly observed, these versions have authority so far only as they exactly render the original; and, for himself, he seemed to scorn the idea of reading his sacred books in such versions at all. That the groundworks of the ancient Hindu faith are likewise written in the sacred language of India, and some in that archaic form of Sanskrit, which differs in many respects from the Sanskrit of the classical literature, it is almost needless to say; but it may perhaps not be superfluous to add that several of those works—the Vedas, for instance—and the principal Purânas, are not accessible to a Hindu except in that language, since no translation of them exists in any of the vernacular tongues.

Now, as to Mr. Kursandâss, the spirited editor of the Bombay

journal, who in this noteworthy case courageously staked his property, and probably his personal liberty, who had to brave not only the obloquy of his countrymen, but an organised conspiracy—what does he say as to his trustiest weapon, this Sanskrit tongue, when he enters the arena to struggle for the restoration of the pure ancient religion of India? He frankly and honestly confesses that he has no knowledge whatever of it. He does his best to supply that defect by resorting to a young native who seems to have a smattering of it, and provides him with the translation of a passage of the commentary of Gokulnâth; but beyond the result of this trifling assistance, given only for the purposes of his defence, his ascertaining the authoritative sense of a Sanskrit work does not go. He had taken up the cause of religious reform, because he had heard, and felt convinced, that the ancient Hindu creed must be pure, and different therefore, from the unclean shape in which it is paraded before his eyes; but it had never occurred to him, when appealing to the Vedas, that the Vedas could not talk to him unless he mastered the language in which they were composed.

And the Mahârâja? When we quote the words of one of the judges, who said—"That the plaintiff has allowed his personal interests to overcome his respect for truth while on his oath in the court," and those of the other judge, who declared "the oath of the plaintiff as utterly valueless," and "the whole framework of his evidence as conceived in a spirit of hypocrisy and falsehood,"—we may be spared the necessity of scrutinizing the knowledge of which he makes profession in regard to the original works of his own and the ancient Hindu faith. Yet some of his own statements are, nevertheless, too curious not to deserve a passing notice. Sanskrit, he says, on one occasion, he knows "for the most part;" and on another, he owns that he "knows more of Sanskrit now than he did before the libel." In his plea he classes the "sacred books of the Hindus" as, first the Purânas, then

the Vedas and Shastras; but, when cross-examined, he can neither give the names of the four Vedas, nor had he any idea whatever as to the number of that part of them called the Brâhmanas. He has heard the name of the Brahma-vaivarta Purâna, but he has not read it. His opinion was that if the Shastras allowed it, remarriages of widows might take place, but not otherwise. He had seen no authority in the Shastras for remarriages, but personally he had no objection thereto; in his sect, indeed, remarriages took place, and he did not prohibit them. He likewise informed the court of a fact which as yet rests on no other authority than his own—viz., that the name of the god Krishna occurs in a portion of the Vedas. Of the other Mahârâjas he cannot say whether a few only can read Sanskrit; but the witness most friendly to him did not hesitate to say that "the plaintiff was an exception amongst them, the rest being ignorant persons."

We have shown enough, we think, of the scholarship of these high priests and preceptors of the Vallabhâchârya sect. Yet, though the specimen of saints introduced to us by this trial is perhaps merely an illustration of the adage that there is but one step from the sublime to the ridiculous, we cannot conceal from ourselves the reality that that step may be an extremely unpleasant one.

In the worst days of Roman Catholicism, when the multitude professing that religion was steeped in ignorance and its worship was no better than idolatry, there was still a considerable portion of its priesthood fully acquainted with the text-book of Christianity. It was, no doubt, with its priests a question of policy whether their flock should be admitted to the knowledge which they possessed, and restored to a purer faith; but that they had the power to work that change is borne out by the history of Protestantism. Yet, without fear of contradiction, we may assert that the vast majority of all Hindu priests are as ignorant of the ancient faith of their nation as the Mahârâja of Bombay;

nay, this Mahârâja himself is not merely a fair average specimen of a Hindu priest, but his knowledge, however miserable, exceeds that of most priests of other Hindu sects. Amongst the hundred million and more who profess Brahmanism, there are perhaps a few thousands who may be able to read an easy Sanskrit book; but those who can master a philosophical or grammatical work are scarcely to be found except at the high seats of learning, such as Benares, Calcutta, and Poona, while as to those who can understand a Vedic text, like the venerable author of the great Cyclopædia, Râjâ Râdhakânt Deb, or the learned editor of one of the Vedas, Babu Rajendralâla Mitra, or like the accomplished Dr. Bhau Dajee, a gentleman whom Sir Joseph Arnould describes as "one who in learning, freedom from prejudice, and general superiority of mind, is among the foremost, if not *the* foremost of the native citizens of Bombay,"—their number is indeed so infinitely small that it disappears in the mass of their co-religionists.

And yet every Hindu, high or low, is eager to persuade himself, that his actual worship is founded on inspired texts: for he knows that it would be worthless unless it could trace its tenets to the "inspired" words of the Vedic hymns; he clings to it because he is penetrated with an instinctive feeling, that if he abandoned a religion based on the Vedas, he would abandon that which is dearest to a man, his nationality. It is this instinctive feeling alone that arms him against any attempt at conversion; for, even though the intelligent native may recognise the superiority of Christianity as taught by the New Testament over the sectarian worship practised by himself, yet, rather than profess a religion foreign to his instincts, habits, and nationality, he will console himself with the hope that he may one day possess in his old faith, when restored, one as good and as pure as any other faith.

Whether that hope be justifiable or not is a question that admits of different answers, according to the mental and social condition of the

inquirer. But Hindu and European must alike agree that a nation which cannot examine and understand the foundation of its own existence, is on the high road to the loss of that existence altogether. And because we are well aware that the intelligent portion of the present generation of India has raised its political aspirations, and has the proud ambition of conquering for its country the same position which is occupied by the other parts of the British Empire, we must remind them that the first and most efficacious means for attaining that end is boldly to attack the deplorable religious condition of their countrymen, and that this is to be done only by imparting to them a knowledge of their own literature, and more especially of those sacred works which mark the brightest epoch of their national life. There are some amongst them, we know, who consider the religious question as insignificant compared to the great political questions of the day, and who judge of the different forms of their present worship by the standard which a celebrated historian applied to the various forms of Paganism in ancient Rome: that they are all alike sublime to the vulgar, all alike useful to the politician, and all alike ridiculous to the philosopher. But these modern Hindu statesmen seem to forget the downfall of ancient Rome, and that masses sunk in religious degradation can never become the political equals of those to whom their sublime is the ridiculous. Nor must they imagine that their favourite appeal to the argument of Sankarâchârya can avail in these days. When that great reformer and philosopher—probably about a thousand years ago—made his crusade against the heresies then rampant all over India, he is said to have himself established several sects, and to have sanctioned the worship of any acknowledged deity, "for the sake of those whose limited understandings rendered them incapable of comprehending and adoring the invisible Supreme Being." Hence they conclude, that if so staunch a defender of "a sole Cause and Supreme Ruler of the universe" considered the worship of Vishnu

and Siva in its various forms compatible with the monotheistic doctrine he was preaching to his countrymen, no objection need be taken to the present creed as answering the same ends.

An appeal to authorities, instead of an argument, is in itself a confession of defeat; but those who are in the habit of using this appeal as their argument do not seem to apprehend that it could be turned against them as one of the strongest condemnations of the practices which they palliate. Sankara, one of the most renowned and influential scholars of mediæval India, was himself one of the most zealous denouncers of all worships if repugnant to the Vedas. His aim was the propagation of a belief in one immaterial Cause. In his chief work, the Commentary on the text-book of the Vedânta philosophy, he endeavours to prove that the celestial beings named in the Vedic writings are but allegorical personifications of that Supreme Being, and in his Commentary on the Upanishads he compares such gods even to demons, or foes of the human race. If tradition therefore be correct, that he tolerated the modern worship of the sectarian gods,—for, let it be remembered, that it is only a vague tradition which ascribes that toleration to him—it is obvious that this admission on his part was, if not an act of weakness and inconsistency, at the best an educational experiment, supposed by him to lead to the end which engrossed his mind. A thousand years, one would think, are a sufficient space of time to prove the error of Sankarâchârya. The experiment has had its test, and it has lamentably failed. Another thousand years of a similar experiment, and we feel convinced that no Brahmanical Hindu will then be found to whom it could be denounced as fallacious and mischievous.

But, let us ask what those writings are which the orthodox Hindu is called upon by his creed to consider as inspired, and what are those other works which in the course of time his priests have foisted as such on his credulity?

The oldest tradition is very precise in the answer it gives to the first of these questions. So far from leaving it to the option of a believer to declare at will any book inspired, and so far from recognising any gifted individual who might at some future period pretend to receive inspirations from divine apparitions or intuitions, it has carefully defined the personages who alone had been favoured by the Deity, and the revelations they had obtained. The former, it says, are the old Vedic Rishis or saints; and the latter are the hymns of the Rigveda, which, dating from eternity, were "*seen*" by them, and the number of which is one thousand and twenty-eight. Passing, then, over the doubts as to the genuine antiquity of some of these hymns—and we could show that even the most orthodox authorities of India looked upon some as spurious—it is certain that the inspired writings of the Hindus do not exceed the limits of those one thousand and twenty-eight hymns.

The Hindu priesthood, however, has managed to demonstrate that one thousand and twenty-eight hymns mean in reality a very ponderous mass of divinely revealed works. "These hymns," it says to the people, "you must be aware, speak of ritual acts which are unintelligible to you, and they make allusion also to events, human and divine, which are shrouded in obscurity; hence you must admit that those works called *Brâhmanas*, which explain the origin and the proper performance of rites—which give illustrations of those events and legendary narratives, and which contain philosophical speculations to boot—are a necessary complement of the inspired Rigveda hymns. And," say the priests, "there are three other Vedas besides the Rigveda, viz., the Yajur-, Sâma- and Atharva-Veda; but, as the contents of these Vedas," they continue, "are bodily taken from the Rigveda, their inspiration can as little be gainsayed as that of these hymns themselves;" and as the Brâhmana portion of these Vedas stands in the same relation to *their* hymnic part as the corresponding portion of the Rigveda stands to the hymns of the

latter, the Brahmins conclude that the inspired works of the Hindu religion are the hymns of the four Vedas and the Brâhmana works attached to each of them. The theologian, moreover, adds:—"And because in the hymns, as well as in the Brâhmanas, there are many hints of extreme mysteriousness—allusions to the production of the world, to the qualities of a supreme God, and to the nature of the human soul—those works which contain the authoritative explanation of these mysteries, the *Upanishads*, cannot be disconnected from the inspiration of the hymns and Brâhmanas.

Those who have followed the course of the religious development of mankind in general will not feel surprised at this luxuriance of inspired texts: the instincts and the history of a priesthood are alike everywhere. One thousand and twenty-eight hymns, of a few verses each, are but a poor livelihood for a fast-increasing number of holy and idle men: but expand these hymns into a host of works which even the most diligent student could not master in less than several years; apply to their teaching the rule that the pupil must never study them from a manuscript, but receive them orally from his spiritual guide; make them the basis of a complicated ritual, which no one is allowed to perform without a host of priests, and handsome presents to each of them—aud what a bright perspective opens itself to a member of the Brahminical caste, and to those who follow in his track!

That the Brâhmana portion of the Vedas, which is entirely ritual and legendary, has no claim whatever to be considered by an orthodox Hindu as dating from eternity, like the hymns of the Rigveda, and as supernaturally composed, results from the tradition to which we have referred; for, though the doctrine of their divine origin has been current in India for more than two thousand years, no Rishi has ever been mentioned into whom they were divinely inspired, except, perhaps, in the case of one, the Satapatha-Brâhmana. But the sanctity of this very Brâhmana

was so little acknowledged by common consent when it was composed, that it marks, on the contrary, a great schism in the ancient religion of India; in fact, when compared with the hymns of the Rigveda, it is so late that there is strong reason to surmise that it did not exist in Pânini's time. This grammarian himself, when teaching the names of some Brâhmanas, gives us rules for distinguishing between ancient and modern Brâhmanas; and even if, contrary to the evidence supplied by him, a single one of those ancient Brâhmanas had come down to us, his rules would bear testimony to the fact that in his time the authors of those works were not yet looked upon as inspired. A very learned writer on Sanskrit literature, indeed, has asserted, on the authority of those rules, that the affix *in* which terminates the name of such ancient Brâhmanas as the Sailâlin, Karmandin, &c., is "a mark that the name to which it is added is that of an author considered as a Rishi, or inspired writer." But such is not the case; for, Pânini, who distinguishes between works that were "seen" or are inspired, between works that were "made" or composed, and works that were "promulgated" or taught, states in the clearest possible manner that those "ancient" Brâhmanas were not "seen," but only "promulgated" by the personages after whom they are named.

Of the inspired character of the Upanishads still less need be said. It is, in India itself, upheld only either by those theologians who—like their commentator, the celebrated Sankarâchârya, or the translator of some of these theosophical works, the late Ram Mohun Roy—endeavoured to give a stamp of sacredness to the Vedânta philosophy founded on them, or by those adherents of other philosophical schools, which appeal for the truth of their axioms to passages from these works. At the time when the priests had succeeded in laying down the law that instruction in sacred works could be imparted only by them, and was to be "heard," or orally received by the pupil from the teacher, they gave

currency to a term, "*Sruti*"—"hearing"—implying by it that the texts which the pupil heard from their mouth were inspired works; but in the early literature even this term comprises merely hymns and Brâhmanas. It is only at a late period of Hinduism that we meet with "Sruti" as applied also to the Upanishad literature.

The inspired network of the hymnic portion of the three Vedas, called the Yajur-, Sâma-, and Atharva-Veda, is apparently closer drawn than that of the other writings just named: but now that it is laid open before the investigating mind of modern Europe and India; now that the spell is broken which made the study of the Veda consist of intonating its verses to the melody of the Guru, and mechanically committing them to memory; now that native and European industry has given us in print not merely the obscure words of the hymns, but also the commentaries which lead us into their inner meaning, no Hindu can shrink from the duty of examining the grounds on which the inspiration of these three Vedas rests.

He will probably not offer much resistance when he is asked to reject that of the Atharvaveda. He possesses abundant evidence that no Atharvaveda was known at an early period of Hindu life. The old and orthodox authorities of India speak of three Vedas only—the Rig-, Yajur-, and Sâma-Veda; even late commentators, though the Atharvaveda existed at their time, pay little attention to it; it is ignored by the ritual-philosophers, the Mîmânsists, whose influence is felt wherever a sacrificial fire receives pious offerings. *Trayî vidyâ*, "the *threefold*," not the fourfold, "wisdom" is in the mouth of every learned Hindu. Will he then contend for the inspired origin and the eternal existence of those incantations and charms which aim at "the attainment of wealth, the destruction of evil influences, the downfall of enemies, success in love or play, the removal of petty pests, recovery from sickness, and even the growth of hair on a bald pate?" Yet, though the character of

the hymns of this Veda differs from that of the Yajur- and Sâma-Veda, the causes whence all these three Vedas arose, are similar; and the test by which a Hindu may judge of the claims to inspiration of one of them, is the test which he may apply to the claims of the remaining two.

The hymns of the Rigveda are essentially poetical: they make frequent allusion, it is true, to pious and sacrificial acts; but so far only as the latter are the concomitants of the pious and poetical feelings of the poet, or as they are connected with events in his personal life. We meet, therefore, with many hymns which have nothing to do with religious performances: thus, some describe the grandeur of natural phenomena; here a gambler "laments over the passion that beguiles him into sin," and there a Rishi even ridicules the worship performed by the priests. In short, these hymns, if taken as a whole, are the genuine product of the poets' minds: they reflect the gradual growth of a nation's life; they were not composed for any ritual purposes. On the other hand, there is nothing genuine in the Yajur- and Sâma-Vedas. These Vedas are arranged and written merely to serve as prayer-books at various sacrificial acts. The collection of the Rigveda hymns, as one may *a priori* conclude from their very character, did not admit of any arrangement answering systematically the order of an elaborate ceremonial; the arrangement of the two other Vedas, on the contrary, is entirely adapted to it, and therefore throughout artificial. Thus, the verses of the Sâmaveda were intoned at the sacrifices performed with the juice of the Soma plant, and the order in which these verses occur is that of the sacrificial acts of which the Soma sacrifices consist. Again, those of the Yajurveda are arranged according to the rites of a great variety of sacrifices, at which the officiating priests had to mutter them inaudibly.

Now, so firmly rooted is the belief in the divine origin of these Vedas, that it seems almost to have overshadowed the belief in the sanctity of the Rigveda itself; not indeed in spite of their unpoetical

character, but on account of it. For, judging from the opinions met with in the most orthodox writers, the Brahmins seem to have concluded that the Rigveda, however beautiful from an æsthetical point of view, was, after all, more an ornamental than a useful book; that its real destiny is fulfilled in those two other Vedas, taken from it, which a contingent of sixteen officiating priests, supported by butchers, ladle-holders, and choristers, could turn to practical account at ceremonies regulated in their minutest detail, and some of them lasting as many as a hundred days. And, as the sacrifices requiring the muttering of the Yajurveda were even more imposing and more elaborate than those which fall within the range of the Sâmaveda rites, we find that the sanctity of the Yajurveda ultimately outstripped that of the rival Veda too. "The Yajurveda," says Sâyana, the great commentator on the Vedas, "is like a wall, the two other Vedas like paintings [on it]." Yet, as we before observed, the inspired character of these later Vedas rests on the assumption that their verses are borrowed from the Rigveda; that they are, in fact, portions of it. So far as the Sâmaveda is concerned, this assumption is justified; for, though in the present edition of this Veda there are some verses which do not occur in the present text of the Rigveda, we must remember that this text is but one of the recensions of the principal Veda, and that the missing verses may have existed, and probably did exist, in some other recension of it. But a comparison of the Yajurveda with the Rigveda does not allow us to stretch probabilities to this extent. There are portions of the Yajurveda which can at no time have belonged to any recension of the Rich, —we mean those passages in prose, called Yajus, whence the Yajurveda derives its name; for, there is no hymn in the Rigveda that is not composed in verse. Here then this question obtrudes itself—Who are the Rishis who "saw" these passages in prose? Tradition, so far as we know it, is just as silent respecting them as it is respecting the

authors of the Brâhmanas. But as little as these latter works can become inspired because they are tacked to the hymnic collection which was "seen" by the Rishis of old, so little can inspiration pass like the electric fluid from the Rigveda verses, found in the Yajus, to those passages in prose which, from ritual reasons, had been joined to them. Yet, setting aside these pseudo-revealed passages, and those verses of the Yajurveda, too, which do not occur in the actual recension of the Rigveda, we shall be at once enabled to judge, by even a superficial glance, at how the inspired poetry of the Rigveda found its way into the Sâma- and Yajurveda, on what grounds the Brahmins invite the nation to recognise the last two Vedas as inspired texts.

We open at random two hymns which form part of the first book of the Sâmaveda and three chapters of one recension of the Yajurveda. The first hymn of the Sâmaveda which meets our eyes consists of eleven verses (370—380); and with the exception of its third verse (372), every one occurs amongst the verses of the Rigveda; but what is the mutual relation of the verses in both Vedas?

				Book.	Hymn.	Verse.
Sâmav.,	verse	370	is Rigveda ...	8	86	10
,,	,,	371	,,	10	147	1
,,	,,	373	,,	1	57	4
,,	,,	374	,,	3	51	1
,,	,,	375	,,	10	43	1
,,	,,	376	,,	1	51	1
,,	,,	377	,,	1	52	1
,,	,,	378	,,	6	70	1
,,	,,	379	,,	10	134	1
,,	,,	380	,,	1	101	1

The second hymn we happen to choose is the opening one of the Sâmaveda. It consists of ten verses, nine of which are likewise con-

tained in the present recension of the Rigveda, but those nine verses correspond respectively with the following Rigveda verses:—

	Book.	Hymn.	Verse.
Sâmav., verse 1 with Rigveda...	6	16	10
„ „ 2 „	6	16	11
„ „ 3 „	1	12	1
„ „ 4 „	6	16	34
„ „ 5 „	8	73	1
„ „ 6 „	8	60	1
„ „ 7 „	6	16	16
„ „ 8 „	8	11	7
„ „ 9 „	6	16	13

We turn to any chapters of the Yajurveda, say the 22nd to the 25th. They contain verses and passages in prose, which were muttered at the horse sacrifice. Of chapter 22, which has 34 divisions, only four verses occur in the Rigveda, viz.:—

	Book.	Hymn.	Verse.
Yajurveda, verse 10 in Rigveda ...	1	22	2
„ „ 15 „	5	14	1
„ „ 16 „	3	11	2
„ „ 18 „	9	110	3

Of chapter 23, which consists of 65 divisions, there correspond:—

	Book.	Hymn.	Verse.
Yajurveda, verse 3 with Rigveda...	10	121	4
„ „ 5 „	1	6	1
„ „ 6 „	1	6	2
„ „ 16 „	1	162	21
„ „ 32 „	4	39	6

Chapter 24, being entirely in prose, is foreign to the Rigveda; and of chapter 25, with 47 divisions—

	Book.	Hymn.	Verse.
Yajurveda, verse 12 is Rigveda ...	10	121	4
„ „ 13 „	10	121	2
„ verses 14—23 are	1	89	1—10
„ „ 24—45 „	1	162	1—22

and „ verse 46 is the first half of the Rigveda verse 10, 157, 1, the first half of 10, 157 2, and the latter half of 10, 157, 1.

There is unhappily nothing so irreverent as statistical prose. A Brahmin will tell his nation that the verses of the Sâma- and Yajurveda are the same as those of the Rigveda, and, if need be, he may perhaps show that a good number of them do really occur in the original Veda. We, however, are impertinent enough to test that sameness by book, chapter, and verse; we marshal side by side the figures which mark the position of these verses in their respective Vedas—and what do these figures reveal? A Rigveda piecemeal: verses of the same hymn transposed, verses of different hymns shuffled about, and even verses of different authors strung together, as if they had proceeded from the same mind. We expected to find in the later Vedas, the feelings and thoughts of the ancient poets, but we hear only the sounds of their words; we were promised possession, in these Vedas, of a living portion of the Rigveda, but we discover there only its scattered remains. In short, the Brahmin juggles before our eyes what he calls an identity of these Vedas with the Rigveda, yet what we really obtain is but a miserable counterfeit of it.

Well may the disciples of Loyala feel humiliated when they look at the consummate skill with which this Brahminical legerdemain was performed, long before their master had taught them how to govern the world by obfuscating its intellect; for there is no priesthood in the universe which, by a stratagem like that we have described, can boast

of so splendid a success in metamorphosing its most sacred book into a dull attendant on artificial rites, and in diverting the stream of the national life from its original course.

While acknowledging, however, the intellectual capacity of those Brahmins who fashioned the hymns of the Rigveda in a series of "inspired" texts, we ought not to forget that they were powerfully assisted in their task by an invention which, though some may imagine to be of recent date, those Hiudu priests are fully entitled to claim as theirs—we mean the invention of writings without a writer—anonymousness. Pride in his personality is the natural feeling of a man whose work proceeds from the promptings of his own genius and will; and nations likewise have the instinctive feeling that they uphold their own individuality by guarding from oblivion the memory of their deserving men. Unless, therefore, this innate feeling be intentionally subdued, it is merely an accident—political or literary—when works that merit to be remembered go down to posterity without the names of their authors, since so many names of authors survive without their works. We do not know, it is true, the authors of the Nibelungen and of the Kutrun; we can speak only of the compiler of the Edda; but it is exceptions like these that prove the rule; for even a name like Homer —probably devoid of a personal reality—shows that the nation which put it forward was eager to possess an individuality in the poet of the Iliad and Odyssey.

But, when man is not the agent of his own acts, or if, for good or evil purposes, he wishes or is forced to personate more than his own self, he sinks his individuality into a brotherhood, he becomes anonymous. To assume it to be a pure accident that the authors of the Yajus and of the Brâhmanas have remained unknown, would be assuming that all those artificial and elaborate works were of unintentional origin, and that the Hindu mind is an exception to the general

law. But that the proud feeling of individuality was as strong in India as it is everywhere else, and at all times too, is evidenced by the long list of proper names which represent the authors of her greatest poetical, philosophical, grammatical, and other works; and it is borne out by the fact that the Hindus remember the names of their oldest Rishis, the "inspired seers" of the Rigveda hymns: for, whether these personages existed or not, whether they *were* the authors of the works or hymns ascribed to them, matters not. To the Hindu mind they are realities: and since, on the other hand, Hindu tradition supplies us with a full account of the names of those who "collected" or arranged the Vedas, and who "promulgated" or taught the Brâhmanas and Upanishads, the very jealousy it betrays in perpetuating the memory of merits inferior certainly to those of authorship, proves that the names of their "inspired" authors cannot have remained unknown through chance or carelessness.

The anonymousness of these Vedic writings is, however, up to this day the staple argument in proof of their sanctity. In a spirited drama, written probably six hundred years ago, a Jaina mendicant apostrophizes a follower of Buddha who intends to persuade him of the superiority of his creed over that of the Jaina sect, in the following terms:—"But who has laid down these laws?" "The omniscient, sacred Buddha," is the reply. "And whence know ye that Buddha is all-wise?" "Why," says the Buddhist, "because it is written so in his sacred books." The Brahminical author of this satire is obviously alive to the more solid basis on which the sanctity of his own revelations rest. The belief in *their* genuineness does not depend on the testimony of those by whom they were composed. Public opinion has never heard of any author of them: hence they must be of superhuman workmanship.

In surveying the origin of the three later Vedas and that of their liturgic and theosophical appendages, we stand, as it were, on the

heights of Hinduism ; but the descent from them to the region of its actual condition is easy, and scarcely requires a guide. For, once acquainted with the spirit that engendered these Vedas and Brâhmanas, with its method of fabricating inspired texts, and the conclusion wrought by its powerful engine, anonymousness, we may feel curiosity as to the turnings and byways of the road ; but the journey itself is monotonous. There is one reflection, however, which may arrest our steps.

It must seem a matter of course that so fertile a soil as the sacrificial Vedas, and the ritual, legendary, and mystical Brâhmanas could not remain without an abundant crop of works ;—human works, to be sure, with their authors' name duly recorded and recognised, but works as indispensable to a proper use of those "inspired" texts, as they were indispensable to turn the ornamental Rigveda into a book of practical utility. They are the Kalpa works. But even these writings could not do justice to the store of services that might be rendered by a Brahmin to his countrymen. The Kalpa works merely treat of those great and public ceremonies which, for a time, may handsomely stock the budget of the officiating priests, but which are too sporadic and too select to be a permanent and solid livelihood. A number of daily and household ceremonies was evidently needed to bring the whole life of a believer under the control and into the grasp of his spiritual master, the priest. These ceremonies, then, were regulated by the Grihya books ; but as the life of even the most pious society cannot be entirely filled up with rites that take place at conception and birth, tonsure and investiture, marriage and the like, it was prudent to impart a religious stamp also to habits and customs—in one word, to the whole organism of society. A special class of works—the Sâmayâchârika rules—was therefore devoted to the ordinary practices ; and from these resulted ultimately the so-called legal works, amongst which Manu's law-book is known as the most prominent. Everything now was as complete as it

could be. Social and religious duties are henceforward synonymous; *dharma* is the word which designates both. All the institutions of society have now become of Vedic origin; for the laws of Manu and others are founded on the habits and customs laid down in the works complimentary to the Grihya works; these complete the Kalpa works; and without the Kalpa works the practical Vedas would be unpractical. The chain which links religion and politics together is, on several occasions, brought home to the Hindu mind by a reasoning like this:—Society cannot perform the duties prescribed in these sacred books unless it possesses a king, who watches over the safety of the people; but a king cannot exist without the produce of the land; land, however, yields no produce without rain; rain is sent down by the favour of the gods; such favour is obtained by means of sacrificial acts; but where there is no Brahmin there is no sacrificial act: king and Brahmin thus close the circle within which the people has to obey the behests of both.

There is, then, that difference between the Vedic works and those which are the present foundation of the Brahmanic belief—that the former were inspired for the exclusive interests of priests, whereas the latter were inspired for the combined benefit of the priests and kings. But the latter, the *Purânas*, have this in common with the three "practical" Vedas and the Brâhmanas—that they are likewise "inspired," because they are anonymous; for tradition, which knows all about Vyâsa, their wonderful compiler, has concealed the names of the holy personages who received them direct from the Deity. If comparison wants to go beyond this, it must hold the Vedic texts before a mirror which reflects a caricature. There is no trace of Vedic poetry or of Vedic thought in all those Purâna works composed in glorification of the epical Pantheon of India, and more especially in that of the Hindu triad—Brahmâ, Vishnu, and Siva. There is scarcely a legend

or myth narrated by them which can claim the remotest connexion with a Vedic myth. There is no ceremony they teach which, put even against the ceremonial of the Brâhmana and Kalpa works, does not appear devoid of all that may please the imagination or elevate the mind; and with the exception of a few of them, their style even is tedious, slovenly, and to some extent ungrammatical. Considered as a whole, these Purânas contain cosmogonies, which are a superstructure of epical and modern legends on the creative theories propounded in some of the systems of philosophy; theogonies, which expand the myths of the great epos, the Mahâbhârata, in favour of the particular god whom it was the intention of the writer to place at the top of the Pantheon; they profess to know the genealogies of patriarchs and the chief dynasties of kings; they are bits of law-books in imitation of Manu and Yâjnavalkya; they pretend to explain ancient ceremonies, and abound in the description of rites which vie with one another in the absurdest detail; tbey prophesy. And as it is plain, from this summary of their contents, that they aimed at being the books that teach everything, and with the weight of religious authority, we cannot feel surprised that some of them considered it necessary also to expatiate on sacred geography or the description of places where there is a special chance of attaining to eternal bliss, on medicine and astronomy, on archery, rhetoric, prosody, and grammar. But the low position which these works occupy in the household of Sanskrit literature, is nowhere more manifest than when they attempt to meddle with those scientific branches of human knowledge, where every student can test the kind of omniscience by which they were inspired.

The modern date of the existing Purânas has long ceased to be matter of doubt to any one who reads them without prejudice; but even an orthodox Hindu must shut his eyes to all evidence, literary, historical, and grammatical, if he attempt to assert their antiquity. From

the abundance of disproof which is open to him, we need, for curiosity's sake, only point to one. That works called Purânas—*i.e.*, "old,"—may have existed at ancient times, and that they may have combined some portion of the matter embodied in the actual works bearing this name, is not improbable; for, the word itself, as designating a class of writings, occurs as early as in the law-book of Manu, though this book itself, as we have seen, may be called recent when compared with the Vedic texts. A definition, however, of what such Purânas are, does not occur before the beginning of the Christian era, when the lexicographer Amarasinha says, that a Purâna is a work which has "five characteristic marks." This definition is again explained by the commentators on the glossary of Amarasinha; and the oldest of them did not live earlier than about four hundred years ago. He says that these five characteristic portions of a Purâna are—primary creation; secondary creation, or the destruction and renovation of the world; genealogy—viz., of gods and patriarchs; reigns of the Manus; and history—viz., of the princes supposed to derive their pedigree from the sun or moon. Now, in applying this definition to the actual Purânas, Professor Wilson, the distinguished Sanskrit scholar, who translated the whole Vishnu Purâna, and was thoroughly conversant with these works, observes, "that not in any one instance do they exactly conform to it; that to some of them it is wholly inapplicable; whereas to others it only partially applies."* Whatever, therefore, may have been the nature of the original Purânas, and whatever scope

* A translation into English of the most interesting portion of these works was made in India many years ago, under the personal direction of this celebrated and learned scholar. With the consent of his widow, and by the liberality of Government, this important MS. collection—the only one which enables the English student, not conversant with Sanskrit, to examine the principal contents of the Purânas—forms now part of the library of the India Office.

one may give to the assumption that the actual Purânas have borrowed part of their contents from some older works of the same name, it is obvious that, in their present shape, they cannot reckon their age by many centuries.

When, by priestcraft and ignorance, a nation has lost itself so far as to look upon writings like these as divinely inspired, there is but one conclusion to be drawn: it has arrived at the turning-point of its destinies. Hinduism stands at this point, and we anxiously pause to see which way it will direct its steps. For several centuries, it is true, its position has seemed stationary; but the power of present circumstances, social and political, is such that it can no longer continue so. All barriers to religious imposition having broken down since the modern Purânas were received by the masses as the source of their faith, sects have sprung up which not merely endanger religion, but society itself; tenets have been propounded, which are an insult to the human mind; practices have been introduced, which must fill every true Hindu with confusion and shame. There is no necessity for examining tbem in detail, by unveiling, for instance, the secrets of the Tantra literature; nor need we be at the pains of convincing the intelligent portion of the Hindu community; for, the excellent works which it sent forth from Calcutta, Benares, and Bombay, and the enlightened views which it propagates through its periodical press, fully prove that, equal in mental accomplishments to the advanced European mind, it requires no evidence of the gulf which separates the present state of the nation from its remote past.

But what we do hold is, that all the activity of that learned portion will not avert the danger which threatens the future destiny of Hinduism, unless it boldly grapples with the very root of the disease. The causes of the gradual degeneracy of Hinduism, are, indeed, not different from those to which other religions are subject, when

allowed to grow in the dark, In Europe, religious depravity received its check when the art of printing allowed the light of publicity to enter into the book whence her nations derive their faith; and no other means will check it in India than the admission of the masses to that original book which is always on their lips, but which now is the monopoly of that infinitesimal fraction of the Brahminical caste able to understand its sense; and admission, also, to that other and important literature which has at all periods of Hinduism striven to prove to the people that their real faith is neither founded on the Brâhmana portion of the Vedas, nor on the Purânas, but on the Rigveda hymns.

If those intelligent Hindus of whom we are speaking have the will and the energy to throw open that book, and the literature connected with it, to the people at large, without caring for the trammels imposed on caste by the politicians of late ages, we have no misgivings as to the new vitality which they will impart to its decaying life, The result is foreshadowed, indeed, by what their forefathers attempted to do, but did not succeed in accomplishing, because they had not the courage to break through the artificial bonds which had already in their day enslaved Hindu society. We will briefly advert therefore to their views and to the light in which they must have read their most ancient text.

The hymns of the Rigveda, as we observed before, are of an entirely poetical stamp. "They almost invariably combine," as Professor Wilson writes, "the attributes of prayer and praise. The power, the vastness, the generosity, the goodness, and even the personal beauty of the deity addressed, are described in highly laudatory strains; and his past bounties or exploits rehearsed or glorified; in requital of which commendations, and of the libations or oblations which he is solicited to accept, and in approval of the rite in his honour, at which his presence is invoked, he is implored to bestow blessings on the person

who has instituted the ceremony, and sometimes, but not so commonly, also on the author or writer of the prayer. The blessings prayed for are, for the most part, of a temporal and personal description,—wealth, food, life, posterity, cattle, cows, and horses. . . . There are a few indications of a hope of immortality and of future happiness, but they are neither frequent nor, in general, distinctly announced, although the immortality of the gods is recognised." The following verses taken from the second Octade of the Rigveda—in the literal translation of it by Professor Wilson—may afford an idea of the general tenor of these hymns. They are addressed, the first four to Pûshan, the nourishing Sun; the five latter to Heaven and Earth:—

"1. The greatness of the strength of the many-worshipped Pûshan is universally lauded; no one detracts (from his praise): his praise displeases no one. Desirous of happiness I adore him, whose protection is ever nigh: who is the source of felicity; who, when devoutly worshipped, blends with the thought of all (his worshippers); who, though a Deity, is united with the sacrifice.

"2. I exalt thee, Pûshan, with praises, that thou mayest hasten (to the sacrifice), like a rapid (courser) to the battle; that thou mayest bear us across the combat, like a camel; therefore do I, a mortal, invoke thee, the divine bestower of happiness, for thy friendship; and do thou render our invocations productive (of benefit); render them productive (of success) in battles.

"3. Through thy friendship, Pûshan, they who are diligent in thy praise and assiduous in thy worship, enjoy (abundance), through thy protection; by (assiduous) worship they enjoy (abundance); as consequent upon the recent favour, we solicit infinite riches; free from anger, and entitled to ample praise, be ever accessible to us; be our leader in every encounter.

"4. Free from anger, and liberal of gifts, be nigh to us, for the

acceptance of this our (offering); be nigh to those who solicit food: we have recourse to thee, destroyer of enemies, with pious hymns. I never cease, Pûshan, acceptor of offerings, to think of thee; I never disregard thy friendship."

"1. Those two, the divine Heaven and Earth, are the diffusers of happiness on all, encouragers of truth, able to sustain the water (of the rains), auspicious of birth, and energetic (in action); in the interval between whom proceeds the pure and divine Sun for (the discharge of his) duties.

"2. Wide-spreading, vast, unconnected, the father and mother (of all beings), they two preserve the worlds. Resolute, as if (for good) of embodied (beings), are Heaven and Earth, and the father has invested everything with (visible) forms.

"3. The pure and the resolute son of (these) parents, the bearer (of rewards) [the sun], sanctifies the world by his intelligence; as well as the milch cow (the earth), and the vigorous bull (the heaven), and daily milks the pellucid milk (of the sky).

"4. He it is, amongst gods (the most divine), amongst (pious) works the most pious, who gave birth to the all-delighting heaven and earth: who measured them both, and, for the sake of holy rites, propped them up with undecaying pillars.

"5. Glorified by us, grant to us, Heaven and Earth, abundant food and great strength, whereby we may daily multiply mankind; bestow upon us commendable vigour."

As with the exception of a few hymns which have no reference to the praise or worship of the elementary gods, the scope and tenor of all the lays of the Rigveda are similar to those we have quoted, the first question suggested by them is whether they contain any laws or injunctions concerning sacrificial rites. The answer is in the negative. They allude to such rites, some with less, and others with more detail;

but these allusions are no more than a record or a narrative of the practices of the poets of the hymns. We are told, it is true, that the practices of those holy men are tantamount to a law ordaining them; but it is clear that such an inference is purely arbitrary. That it was strenuously opposed, moreover, by the highest authorities of ancient and mediæval India is borne out by the works and efforts of that influential school which professes the Vedânta tenets, and which counts Sankarâchârya amongst its teachers and divines. No Hindu doubts of the thoroughly orthodoxy of that school, and yet all its writings reject "work," that is, the observance of the sacrificial rites, as a means conducive to eternal bliss. It rejects, therefore, implicitly, the sanctity or authority of those "sacrificial" Vedas, the only object of which is the institution of such rites; and with them, as a matter of consequence, the binding power of the Brâhmanas and the worship founded on them.

The next important question relates to the doctrine professed by those poets who are supposed to have received the Rigveda hymns from a deity. The answer to it is complicated from a European, but simple from a Hindu, point of view. To the European inquirer the hymns of the Rigveda represent the product of various epochs of Hindu antiquity: in some he will recognise a simple, in others a complex, ritual; some will reflect to his mind a pastoral and, as it were, primitive life, others a people skilled in several arts and engaged in mercantile and maritime pursuits. And, in investigating the religious views expressed by these hymns, he will find accordingly, in some, the worship of the physical powers, whereas he will discover in others the idea of a Supreme Creator of the universe. He will perceive in them, in short, a progressive religious thought, beginning, as everywhere religion began, with the adoration of the elements, proceeding to an attempt at understanding their origin, and ending with the idea, more

or less clear, of one creative cause. The last stage of this development is indicated, for instance, by a hymn which has already acquired some celebrity, as attention was drawn to it by so early a Sanskritist as the illustrious Colebrooke, and as it has found its way into several European works. It runs as follows:—

"Then was there no entity nor nonentity; no world, nor sky, nor aught above it; nothing anywhere in the happiness of any one, involving or involved; nor water, deep or dangerous. Death was not; nor then was immortality: nor distinction of day or night. But THAT breathed without afflation, single with (Swadhâ) her who is sustained within him. Other than him, nothing existed (which) since (has been). Darkness there was; (for) this universe was enveloped with darkness, and was undistinguishable (like fluids mixed in) waters; but that mass, which was covered by the husk, was (at length) produced by the power of contemplation. First, desire was formed in his mind, and that became the original productive seed; which the wise, recognising it by the intellect in their hearts, distinguish, in nonentity, as the bond of entity. Did the luminous ray of these (creative acts) expand in the middle? or above? or below? That productive seed at once became providence (or sentient souls) and matter (or the elements): she, who is sustained within himself, was inferior; and he, who heeds, was superior. Who knows exactly, and who shall in this world declare, whence and why this creation took place? The gods are subsequent to the production of this world; then who can know whence it proceeded; or whence this varied world arose? or whether it upheld itself or not? He who in the highest heaven is the Ruler of this universe does indeed know; but not another can possess that knowledge."

The orthodox Hindu mind does not admit in these hymns of a successive development, like that which we must assert. It considers, as mentioned before, all the hymns of the Rigveda as being of the

same age; as dating from eternity. The Upanishads, and still more explicitly the Vedânta writers, cannot therefore allow any real discord to exist between the adoration of the phenomena of nature and the belief in one Supreme God. They solve the difficulty by concluding that the elementary gods are but allegorical personifications of the great soul, the primitive cause of the universe. And even Upanishads and Vedântists were already preceded in this view by Yâska, the oldest exegete of the Vedic hymns, who, on one occasion, says;—"There are three deities (Devatâs): Agni (Fire), who resides on earth; Vâyu (Wind), or Indra (Firmament) who resides in the intermediate region (between heaven and earth); and Sûrya (Sun), who resides in heaven. . . . . Of the Devatâ there is but one soul; but the Devatâ having a variety of attributes, it is praised in many ways: other gods are merely portions of *the one Soul.*"

Upanishads, therefore, and Vedânta, the type of Hindu orthodoxy, will by no means allow that Hinduism, represented by the Rigveda, was at any period idolatry; they maintain that all the Rishis intended to inculcate the standard tenet of Monotheism. Whether they are justified in this theory does not affect the practical conclusion at which we aim. For, this much is certain, that they interpret the Vedic hymns so as to derive from them the belief in one God, and that they quote numerous passages by which they intend to invalidate all doubts to the contrary.

But, what is remarkable, too: during the long period of Hindu theology which is comprised by the Upanishad and Vedânta literature, there is no attempt on its part at expanding this tenet of Monotheism into any doctrinal mysticism. They abound in the most pious phraseology: they show that the Vedic text inculcates the idea of the immateriality, the infiniteness, and the eternity of the Supreme Spirit; they expatiate on its qualities of goodness, thought, and beatitude; but they are

entirely free from any tendency to justify the notion of a mystical incarnation of that Spirit such as is taught, for instance, by the votaries of Brahmâ, Vishnu, and Siva. From the words of the Veda, it must be granted, they endeavour to prove that the human soul having been created by that One Spirit, it is bound to maintain its original purity, and if it lose it by its acts in the world, it must renew its earthly existence until it is capable of commingling with the divine source whence it sprang. But beyond this doctrine of transmigration—which is incidental to all the Monotheistic religions of mankind—it does not even try to found any religious dogma on the Rigveda hymns. In one word, the pre-eminently orthodox schools demonstrate that *the* Veda imposes no observance of a superstitious ritual; that it enjoins no law regulating for all eternity social or political life, no dogma except the belief in One God, no duty except that of living in conformity with the nature of that God from whom the human soul has emanated.

The bane of the social edifice within which these schools had to live and to teach *Vedânta*, that is, the "purport (*anta*) of the Veda," thwarted their full success, which would have stopped the degeneracy of Hinduism they foresaw; but, however powerful, it could never entirely crush their existence, or completely stifle the influence which they exercised on the nation. The adherents of these schools always fostered a spirit of investigation, and by it threw doubts, at least, into the mind of the masses as to the authority of those law-books which profess to regulate society for all eternity. To their influence, in our days, we must ascribe the quiet disappearance of the practice of Satî after they were shown that the injunction of burning the surviving widow on the funeral pile of her husband had arisen from a misreading of a Rigveda verse. Their learning is active in convincing the masses that the remarriage of widows is not prohibited by the Vedic text; and

to them are due the progressive changes which mark, for instance, the laws of inheritance, propounded by the existing legal authorities, as compared with those presented by Manu.[1]

We may, therefore, still entertain the hope that the regeneration of Hinduism will proceed from these schools, provided that they possess the energy to refuse any compromise with the sectarian worship, which has brought Hinduism into contempt and ridicule. The means which they possess for combating that enemy is as simple as it is irresistible; a proper instruction of the growing generation in its ancient literature, an instruction, however wholly different from that now constituting the education of a Hindu youth; to whom reading the Veda is jabbering thoughtlessly the words of the verse, or intoning it to the melody of a teacher as ignorant as himself of its sense; who, by studying grammar, understands cramming his memory with some grammatical forms, without any notion as to the linguistic laws that regulate them; who believes that he can master philosophy or science by sticking to the textbook of one school and disregarding its connexion with all the rest of the literature. That such a method and such a division of labour do not benefit the mind is amply evidenced by the crippled results they have brought to light. The instruction which India requires, though adapted to her peculiar wants—religious, scientific, and political—must be based on the system which has invigorated the European mind; which, free from the restrictions of rank or caste, tends to impart to it independence of thought and solidity of character.

ARTICLE V.

HINDU EPIC POETRY: THE MAHÂBHÂRATA.

1.—*Indische Alterthumskunde.* Vols. I.—IV. By CHR. LASSEN. Bonn and Leipzig: 1847—1861. (Vol. I., 2nd edition, 1867.)

2.—*The History of India from the Earliest Ages.* By J. TALBOYS WHEELER. Vol. I. London. 1867.

3.—*Original Sanskrit Texts; on the Origin and History of the People of India, their Religion and Institutions.* By JOHN MUIR. Vol. I.—IV. London: 1858—1863; (Vol. I., 2nd edition, 1868.)

4.—*Le Mahâbhârata. . . . Traduit en Français.* Par HIPPOLYTE FAUCHE. Vols. 1.—VII. Paris: 1863—1867.

WHEN the late Professor H. H. Wilson had completed the first volume of his—now celebrated—translation of the Rigveda he felt sure that his long and laborious work was about to satisfy an eager desire of every literary man, and relieve the anxiety which, he supposed, was generally evinced to get at the remotest source of the religious creed of India. Proud, therefore, of the service he was about to render to the world at large, and to this country in particular, and free from all vanity or

selfishness—as none ever entered the heart of this truly scientific and noble-minded man—he felt especially happy when at last he was able to offer his work for publication to one of the most renowned publishers of England. The offer was unconditional; the importance of the work beyond the possibility of a doubt, and the interest it would create, as he at least thought, so universal, that the greatest reward for the moment, as he pictured it to himself, was the delight with which the publisher of his choice would receive his proposal to open to the public the Hindu book of seven seals—the oldest Veda.

He had finished his little speech to the publisher, and the reply he received was not a refusal. It was only a question; but a question compared to which a hundred refusals would have been nectar and ambrosia to the feelings of the venerable translator of the Veda: it was the question, "What in the world, sir, *is* the Veda?"

Hindu mythology sometimes tells us of gods who have dropped from their heavens. This great event was then generally caused by the severe austerities of some powerful saint, by his stern insensibility to worldly demands. Here it was insensibility too, though of another kind, that sent the enthusiastic professor down from his heaven to the realities of this world. He folded up his precious parcel, and to the question, "What, sir, is the Veda?" the Royal Asiatic Society was indebted for one of the most interesting lectures, which towards the close of his long and meritorious career he delivered within its walls, and in which he narrated the incident of which we are reminded in proposing to approach another chapter of the theme of so many mysteries still unsolved—ancient India.

The Veda, indeed—or, as we should say, the Vedas—have since been especially fortunate. For the last eighteen years and more they have almost exclusively engaged the attention and energy of the best Sanskrit scholars in India, Europe, and America, not to speak of the precursor

of all modern Sanskrit scholarship, the great H. T. Colebrooke, whose essays on the Vedas, though written in the beginning of this century, still shine in their brightest lustre. Thanks to the efforts of such eminent men as H. H. Wilson, Max Müller, Benfey, Haug, John Muir, Cowell, Whitney, Râjendralâl Mitra, and others, no question will be further raised as to what are the Vedas. The contents, it is true, of these oldest records of Hindu civilization, and still more those of the vast literature connected with them, are as yet far from being fathomed to their full depth; but their surface, at least, has been extensively explored, and, though it cannot be said that every explorer has proved a reliable guide, the busy life which for many years has marked these Vedic expeditions bears witness to the interest with which they were followed by scientific research and amateur curiosity. Nor would it be just to regard even their aberrations as the result of mere conceit, and as altogether devoid of utility; for if by the side of such an understanding of the Vedas as is handed down to us by native scholarship and native tradition, and as is considered authoritative by the Hindus themselves, as well as by many scholars in Europe, we shall in some years hence, as we are given to hope, also possess an interpretation of these works such as was never heard of before in India, or elsewhere, the opportunity of comparing the results attained by the more serious of these various explorations can only tend to further the ends of truth, just as the mere prospect of these adventurous enterprises has already called new forces into the field, roused new combatants to the fight, and even produced the hornblowers and the clown to afford recreation and amusement on a long and perhaps tedious march.

The more, however, Vedic studies have of late engrossed the best energies of the present staff of Sanskrit scholars, the more, necessarily, have other fields of Sanskrit philology remained, comparatively speaking, fallow. It is especially the gigantic epos of ancient India, the Mahâ-

bhârata, which has suffered under this flux and reflux of Sanskrit studies in Europe. When, in 1819, by one of his happy hits, the late illustrious founder of comparative philology made known Nala and Damayantî, one of the most charming episodes of the Mahâbhârata, and a few years later followed it up by his edition of some other portions of the same epos, less poetical, but still of considerable merit, the hope was justified that we might get hold of a knowledge of the whole wonderful fabric from which these fragments had come to light. Translations of these episodes which also made their appearance rather increased than satisfied the curiosity that had been roused. Nor was it appeased by other and larger extracts from the great poem which subsequently followed, both in the original Sanskrit and in various European versions. Native industry and scholarship, it is true, were in the meantime hard at work. Under the patronage of the Asiatic Society of Bengal. which, while now doing its best work, through the efforts of such scholars as Râjendralâl Mitra, Nârayâna Vidyâratna, K. M. Banerjea, and other eminent natives, was at that time guided by the counsel of men like H. H. Wilson and James Prinsep, the whole text of the Mahâbhârata was prepared for the press and afterwards printed at Calcutta in four portly quartos; and we may here add, it has been followed of late years by another edition of great value, which, together with a paraphrase in Bengali, owes its existence to the munificence of the enlightened Maharâja of Burdwan. And even so recently as five years ago a third splendid edition of the great poem, together with an important commentary on it, was sent forth from a Bombay press, its appearance being chiefly indebted to the advice and liberality of a distinguished native scholar, whose name has for many years been in the foremost rank wherever literary, scientific, and philanthropic work required the assistance of sound knowledge, a clear intellect, and a generous heart—we need not say, Dr. Bháu Dáji.

Ever since 1839, therefore—when the last volume of the first edition of the Mahâbhârata was completed in print—there has been no lack of material for studying even in Europe this wonderful book; nevertheless, the public at large, and probably many a Sanskritist, would still pause in having to answer the question, "What is the Mahâbhârata?" Judging from printed evidence, there is only one scholar in Europe who seems to have mastered the great epos in all its varied details. True, it is no less a scholar than Lassen, one of those rare minds who combine critical judgment with a vast and profound scholarship. Yet a monography of the Mahâbhârata did not enter into the plan of Lassen's works, and more especially into that of the greatest monument he has raised to his fame—his "Indische Alterthumskunde." That he explored every corner of the great epos is borne out by the use he has made of it in the last-named work for his special purposes; but these purposes themselves were chiefly limited to showing the importance which the Hindu poem has for an investigation of the history and geography of ancient India, and the numerous other problems raised by it did not therefore receive in his masterly work that minute attention which no one was so well qualified as himself to give to it. A consideration of a few of these problems fortunately belonged more especially to the province of Dr. John Muir's "Original Sanskrit Texts," a work which, under the most modest title, has contributed more trustworthy materials to the elucidation of some of the obscurest points of Hindu antiquity than many a pretentious book professing the same aim; and, in spite of its extreme cautiousness in arriving at settled conclusions, by its thorough impartiality, and judicious treatment of the subject-matter, it will have done more to establish correct ideas than the bold assertions and solemn affirmations with which some other writers on Sanskrit matters are wont to represent the unreliable result of their speculations. But the "Original

Sanskrit Texts," like the work just referred to, merely touches upon *some* of the religious and antiquarian questions connected with the Mahâbhârata, upon such questions as lay within the scope of Dr. Muir's own plan. They neither profess nor intend to supply a knowledge of the whole of the Mahâbhârata. A little and very useful book, published by Professor Monier Williams, in 1863, would seem to be more directly concerned with this task, for it bears the title of "Indian Epic Poetry," and, besides a popular and interesting introduction, gives what it calls an analysis of the Râmâyana,—the second great Hindu epos—and of the Mahâbhârata. Unfortunately, however, it omits to speak at all of the episodical matter treasured up in this poem, and filling not less than three-fourths of the whole work: and the "summary" itself of the rest—as he probably meant to convey by the word "summary"—has so completely assumed the character of a skeleton that it would be in vain to seek in it any of the life of the Mahâbhârata. Still, though the living Mahâbhârata does not seem to have been the subject of Professor Williams's inquiry, even his diligent gathering of its bones and his earnest attempt to give a correct outline of its external features, is a good service, for which the humbler class of Sanskrit students must be thoroughly grateful to him.

Two other works mark the last visible phase which may be assigned to Mahâbhârata studies as ventured upon by European scholars. The one is—in course of publication—the translation of the Mahâbhârata in French, by M. Hippolyte Fauche; the other the first volume of "the History of India from the Earliest Ages," by Mr. Talboys Wheeler, which, from its page 42 to 521, is exclusively devoted to the great poem.

A literal translation of the Mahâbhârata in any of the generally known languages of Europe would be, of course, a first desideratum to any one who, though unacquainted with Sanskrit, yet would wish to

form for himself an opinion of the nature and contents of the great works. He would certainly be well-informed enough not to expect that, however excellent such a translation might be, it could replace the worth of the original, or that from it he could collect the strain of ideas which only the words of the poet himself are able to rouse, or the thoughts which lie hidden in the very sounds in which they came first to light. Nevertheless, a good and literal translation of the Mahâbhârata would be a great literary boon, and its importance may be well realized if one remembers the effects which, in Germany, for instance, the translation of Homer's poetry by Voss produced on the education of the people. The difficulties, however, which beset a good translation of the Mahâbhârata in our days are not to be compared to those which Voss had to encounter when he increased German literature with another national work. We do not speak of difficulties essentially æsthetical, we merely refer to those purely philological; for, in spite of the excellent work done in the three editions of the Mahâbhârata already mentioned, we venture to say that a comparison of the existing manuscripts of the epos—and we can here only speak of those to be found in Europe—would show that a good deal of additional critical labour must be performed before we can hope to possess a thoroughly genuine text of the poem. It does not seem that M. Fauche was troubled by any anxiety of this kind. To him the first and naturally least critical edition was the genuine text; but we fear that even to this he did not always conform, and that his imagination had too often a more powerful sway over him than a submissive adherence to grammar would allow. His translation is often neither literal nor correct, and when we add that it is in prose, without the pretension of affording an æsthetical equivalent for the poetry of the original, we must necessarily conclude that it does not reach the beau ideal of a version of the Mahâbhârata. Still, though justice has to be severe, it must be equitable. Had M. Fauche laboured

under the full weight of the difficulties to which we have already alluded, his present translation would probably not have come to the world so soon, if indeed it had ever come, and those whom Sanskrit philology does not count amongst its working men, but wishes to enlist as its patrons and friends, would have lost the considerable advantages which, in spite of its imperfections, they may derive from his very laborious work; for as it follows the original verse for verse, and as its failings do not affect the general tenor of the contents it renders, it is, for the present at least, the best guide we could recommend to those who, without the aid of the original, may wish to obtain an insight into this wonderful product of the Hindu mind. And the objections here raised, we will hope, may even be lessened the more M. Fauche's translation progresses on its road; for though it has already reached its seventh volume, the ground passed over is not more than about a third of the entire journey to be accomplished; and doubtless every succeeding step towards its goal will enable its meritorious author, whose enthusiasm and industry cannot be sufficiently praised, to travel with greater safety than before, and thus will still more ensure to him the gratitude of the literary world.

Mr. Talboys Wheeler's investigation of the Mahâbhârata is, in one sense, perhaps the most curious that as yet has seen the light of publicity. For, when we say that Mr. Wheeler is no Sanskritist, and that he has not availed himself either of Lassen's researches or M. Fauche's translation—even so far as it goes—it might well be wondered out of what materials he built his comprehensive sketch of the leading story of the Mahâbhârata and the inferences he drew from it. And the wonder might seem the greater when we add that with some restrictions his sketch is the best we know of in print, and his reasoning very often to the point. The mystery is lessened, however, by the account which he himself gives of the foundation on which his structure was

raised. In the library of the Asiatic Society of Bengal there was lodged, he relates, "many years ago, a manuscript translation of the more important portions of the Mahâbhârata, which there is reason to believe was drawn up by the late Professor H. H. Wilson. The manuscript was very illegibly written upon paper much embrowned by age, and seems to have been at least fifty years in existence. The whole has now been copied and indexed, and forms nine volumes folio. The original was by some mistake put away in the Calcutta library under the head of Bhagavadgîtâ, and was not discovered by Mr. Wheeler until four years ago, when he accidentally sent for the Bhagavadgîtâ, and to his surprise and gratification found that the manuscript contained the bulk of the Mahâbhârata." Unless we are much mistaken, some additional information might be added to that given us by Mr. Wheeler regarding his lucky discovery. When living in India, the late Professor H. H. Wilson had under his superintendence translations prepared—and some of them he probably himself made—of nearly all the chief contents of the Purânas, the Mahâbhârata and the Râmâyana; and these were, after his death, found to have been preserved for the most part in a rough and by him revised draught, and at the same time in a fair copy; some, however, were only in the former condition. A complete set of these translations was hereafter, with the consent of his widow, acquired by the library of the India Office, and the remaining incomplete portion representing the original draughts of which fair copies had been taken, by the Bodleian library at Oxford. A third set, then, of these same translations seems, therefore, to be that of which Mr. Wheeler speaks, and to him certainly the great merit is due of being the first who turned them to good account. In the first volume of his "History of India" he only utilised that part of these translations which bears upon the political history of ancient India. But, according to the comprehensive plan on which his work is laid out, there is a strong hope that we shall

at last possess a full account of what the Mahâbhârata is, and an account too, rendered not only in a clear and attractive, but in some respects also in an original manner. For the method of Mr. Wheeler consists in premising his own remarks on the story of the epos under review with a narrative of the story itself, but told in his own fashion and words. The original itself thus appears before us, not in the form of a translation, but in that garb which it would assume if, irrespectively of poetical considerations, a modern European had to convey, to a European audience of average education, the general impression produced by the Sanskrit story on the Hindu mind. To effect this end he would have to sacrifice all such details as without much comment would probably remain unintelligible, and he would otherwise, also, have to curtail the original narrative so as not to overtax the patience of an European public.

"Large masses of supernatural matter," Mr. Wheeler says, in reference to the plan of his work (p 39), "have been either briefly indicated or cut away altogether. Brahmanical discourses and religious myths have been generally eliminated, to be reconsidered subsequently in connection with the religious ideas and belief of the people. Many episodes have been excluded . . . but a sufficient number have been exhibited in outline; whilst three favourite stories, which are apparently types of three different epochs of Hindu history, have been preserved by themselves under a separate head. Finally, the residue has been re-cast in English prose in such a condensed form as would preserve the life and spirit of the ancient traditions without oppressing the reader with needless repetitions and unmeaning dialogue; and has been interspersed with such explanations and commentary, and such indications of the inferences to be derived from different phases in the traditions, as might serve to render the whole acceptable to the general reader."

All this Mr. Wheeler has done with considerable tact and skill, and the result of his labour is an English account of the leading story of the great epos, tastefully drawn and attractive from the beginning to the end, but above all very accurate, too, in the main. For when (p. 84) he gives us a little bit of a legend which is to explain why the Bhils "shoot the bow with their middle finger until this day," or when (p. 88) he appends in a foot-note a description of "weapons of a supernatural character;" or when (p. 351) he has a pretty story about Duryodhana's squeezing what he first imagined to be the heads of the five Pându Princes,—all of which incidents are not to be found in the printed text of the Mahâbhârata, there is, after all, not much harm done by these and a few similar embellishments, which must have somehow crept into the translations he used. A mishap of perhaps more—yet by no means vital—consequence is that which occurred to him in his description of the horse sacrifice of Râja Yudhishthira (p. 377—433); since his whole description does not form part of the Mahâbhârata. It is a very condensed extract from a more recent work, the *Jaiminîya-Asvamedha*, or "The Horse Sacrifice," ascribed to the authorship of Jaimini. And to the same work likewise belongs, as an episode, the beautiful little romance of *Chandrahâsa* and *Vishayâ*, which is one of "the three favourite stories" (p. 522—534) referred to by him before. These materials too, therefore, must by accident have been mixed up with the translation of the real Mahâbhârata at his command.

We will now proceed to give a brief outline of the character and the contents of the Mahâbhârata—so far as it has hitherto come within the scope of Professor Lassen's and Mr. Wheeler's works—with an indication, also, of what a future account of it would have to tell were it to do full justice to the gigantic work.

Bhârata it is called because its leading story is devoted to the history

of some descendants of an ancient king of India, called Bharata, and more especially to a fratricidal war which was waged between two branches of his family, the Kauravas or sons of Dhritarâshtra, and the Pândavas, or sons of Pându; *Mahâ*-Bhârata. or the *great* Bhârata, is its name, because it comprises not less than about 100,000 verses, each verse consisting of thirty-two syllables, or, to speak in more homely phrase, above seven times the bulk of Homer's poems combined, or more than twenty times the extent of the Nibelungenlied. There is recorded indeed, in the beginning of the work, a tradition that there are three other versions of the poem, which had a still higher claim to the title of "great," for one of them, it is said, was fourteen, another fifteen, and a third even thirty times as large as the present Mahâbhârata; but as these versions are happily only to be found among the heavenly bards, the manes of the deceased ancestors, and the gods, and as the passage, moreover, containing this tradition is not even contained in all the MSS. of the poem, there is no occasion to mourn the loss of a poem of still more Himalayan dimensions than the actual Mahâbhârata; though, as will presently be seen, there is no reason why on the plan on which the latter, the Mahâbhârata intended for the human race, grew into its present size, it might not have assumed even the bulk which courtesy would consider only fitted for the use of the gods.

This plan may be easily understood. The groundwork of the poem, as mentioned before, is the great war between two rival families of the same kin; it occupies the contents of about 24,000 verses. This, however, was overlaid with episodical matter of the most heterogeneous kind; and the latter became so exuberant that it ultimately exceeded in extent three times over the edifice to which it was attached. Nor was this merely matter of accident in the sense in which such a term might vaguely be used. A record of the greatest martial event of ancient India would have emphatically been claimed as the property of

the second or military caste, the Kshattriyas. It was recited, as tradition tells us, by men of a special caste, the *Sûtras*, or bards, at great public festivals instituted by powerful kings. The heroism of ancient warriors, who were the ancestors of these kings, their wonderful deeds, their royal virtues, their connexion with the gods—all these and kindred themes would naturally tend, in the people's mind, to strengthen their power, and increase the lustre of their dignity. But such an exaltation of the kingly splendour and of the importance of the military caste, would as naturally threaten to depress that of the first or Brahmanical caste. Brahmans, therefore, would endeavour to become the arrangers of the national epos; and as the keepers of the ancestral lore, as the spiritual teachers and guides, as priestly diplomatists, too, they would easily succeed in subjecting it to their censorship. The personage to which this task is by tradition assigned is called *Vyâsa*, a word which literally means "distributor, arranger," and is kindred to the Greek word Homeros, which, from ἀμ and ἀρ, conveys a similar sense, that of "joining together." But Hindu tradition also takes care to say that Vyâsa belonged to the Brahmanical caste. It became thus the aim of the Brâhmanas to transform the original legend of the great war into a testimony to the superiority of their caste over that of the Kshattriyas. And this aim was effected not only by the manner in which the chief story was told, but also by adding to the narrative all such matter as would show that the position and might of a Kshattriya depends on the divine nature and the favour of the Brâhmana caste. Legends relating to the actions of gods and men, to the origin, development, and destruction of the worlds, exposition of matters concerning the moral and religious duties of men, especially the duties of kings, political discourses, essays on philosophy and theosophy, even fables—every subject in fact that could serve this end, was worked into the leading story by priestly skill. Here and there an old legend or myth

might be found in the epos, apparently not betraying such a set purpose. Whether it found its way into it at the time when its general object was already fulfilled, or whether it was a stroke of policy on the part of the oldest compilers, to veil their intentions by also incorporating into their work matters of, politically speaking, an indifferent nature, is of course difficult, if at all possible, now to decide. That their object, however, was to make the Mahâbhârata a *Brahmanical* encyclopædia for the military caste, and a powerful means in the hands of the Brahmans of swaying the Kshattriya mind, is unquestionable. One of several passages taken from the first book of the great poem may afford an insight into the importance which they themselves attached to their work. It runs as follows :—

"This hundred thousand of Slokas, relating holy acts, told in this world by Vyâsa of unbounded splendour—whoever the wise man be who recites it, or whoever those men be who hear it, they will reach the abode of Brahman and obtain the rank of a deity. For this poem is equal to the Vedas; it is pure and excellent, it is the best of all things to be heard, it is the Purâna praised by the saints. In it whatever is conducive to worldly interest and pleasure is fully taught, and the mind that reposes on this holy epos fits itself for final liberation. The wise man who recites this Veda of Krishna to others, provided they are liberal, truthful, not low and not unbelievers, obtains the accomplishment of his worldly interests; and even a wicked man when hearing this epos would get rid of his sin, be it even incurred by the destruction of an unborn child. He becomes liberated from all sins, like as moon is liberated from the (grasp of the) dragon. This poem is victory indeed, and should be heard by every one desirous of conquest. (By its aid) a king conquers the earth and vanquishes his enemies. . . . This poem related by Vyâsa of unbounded intellect, is a sacred code of religious and civil duties; it is an eminent code of all

that relates to worldly interest, and it is a sacred code of final liberation. Some recite it to-day and others will hear it; sons who do so will become obedient (to their parents), and servants will please (their masters). Whosoever hears it, becomes at once free from all sin, whether committed by his body, or his speech, or his mind. . . . He who reads the Bhârata, it must be known, understands fully the Vedas; for there the gods and the kingly saints and the holy Brahmanical saints—all of them free from sin—are extolled, and there Krishna is extolled, and also the holy Siva and his consort, and the birth of the war-god, effected by several mothers, and there is praised the eminence of the Brahmans and the cows. It is a collection of all sacred traditions, and should be heard by those whose mind is given to the law. . . . Whatever there is stated in this Bhârata in regard to religious and civil duties, to worldly interests, to what is conducive to pleasure and leads to final liberation (the Commentary adds: or the reverse of these) that *is;* on the other hand, whatever there is not stated in this poem (in regard to these topics) that can be found nowhere."

The Mahâbhârata may thus be regarded under a threefold aspect; as a work relating events of an historical character; as a record of mythological and legendary lore; and as the source whence especially the military caste was to obtain its instruction in all matters concerning their welfare in this, and their bliss in a future life. Some such aim as the great epos has was also taken by a kindred and later class of works, the Purânas. They are in a great measure modelled on the Mahâbhârata, which is their prototype. But they have remained far inferior to it both as regards the quantity and the quality of their contents. They are moreover works of a sectarian stamp, each of them composed to establish the superiority of a particular god over the rest of the Pantheon; whereas such a purpose, though it may seem to loom

in the distance, cannot yet be ascribed to the framers of the Mahâbhârata. In this poem there is certainly a special predilection for Krishna whom the present Hindu canon looks upon as an incarnation of the god Vishnu; it is called, as we have seen before, 'the Veda of Krishna.' but in those portions of the great epos which in all probability are its oldest, Krishna is only the hero who by his exploits engrossed the national mind; he is treated there as a personage above the ordinary mortal stamp, and as such we may say he is the chrysalis of the future god, but he is not yet there the real unquestionable god of the later period of Hindu worship. Again, though there are passages in the Mahâbhârata, probably of a later date than the former, where Krishna or Vishnu *is* spoken of as the most powerful and even supreme god, there are others too where the same honour is allotted to Siva and his consort, and others where Krishna pays adoration even to the Sun and Fire, or where Agni, the god of fire, is distinctly praised as the universal deity. It is clear therefore that the compilers of the Mahâbhârata were by no means the narrow-minded sectarians of later ages. Impressed, we should conclude, with the philosophical creed of the Vedas, they could, at the behests of policy, bestow their compliments on any god and any form of worship capable of receiving the Brahmanical stamp; but in the pursuit of their policy they must have been aided also, on the part of the people, by a spirit of toleration which could allow each worshipper to look upon his neighbour's god as a god who, too, had its vested rights and some claims to a supremacy which he might not be able to gainsay with certainty. It must have been in their time as it was in the age of the Antonines, which Gibbon describes when saying, "The various modes of worship which prevailed in the Roman world were all considered by the people as equally true; by the philosopher as equally false; and by the magistrate as equally useful."

The Mahâbhârata is therefore the source of all the Purânas, *the* Purâna emphatically so called, and as a document for antiquity unrivalled for religious statesmanship.

There, however, the momentous problem interposes: how far did this Brahmanical diplomacy affect its worth as an historical work, as a source of mythology, and a code of moral, religious, and political law? It is the first of these questions which chiefly engaged the investigations of Professor Lassen and Mr. Wheeler; and we will pause to see how they answered it.

But to appreciate their reasoning we must first take a passing glance at the leading story of the Mahâbhârata.

Atri, a great saint of the Vedic period, who afterwards became one of the lords of creation, produced by a flash of light from his eye the moon, and the moon again (in Sanskrit, a male being) became the ancestor of a line of kings, who therefore are called the kings of the lunar dynasty. One of these was *Purûravas*, whose love for the heavenly nymph Urvasî has become familiar to us through one of the finest productions of the genius of Kâlidâsa, his drama Vikramorvasî. His descendants were in a direct line successively Ayus, Nahusha, and Yayâti, the latter becoming the father of Puru and Yadu. The line of Yadu acquired celebrity through *Vâsudeva*, whose sister was *Kuntî or Prithâ*, but especially through his sons Krishna and Balarâma, the reputed incarnations of the god Vishnu. Puru's son was Dushyanta, the husband of Sakuntalâ, and their son, *Bharata*. From Bharata descended successively Hastin, *Kuru*, and Sântanu. The latter married *Satyavatî*, who, by a previous informal marriage with an impetuous saint, had already borne a son, the celebrated *Vyâsa*, whose specific name was Krishna Dvaipâyana. Sântanu's sons by Satyavatî were Chitrângada and Vichitravîrya; and his son by another wife, the river Ganges, was *Bhîshma*. He adopted moreover a son whose name was *Kripa*. The

two former died childless; but as according to Hindu law the eternal happiness of a man is jeopardised unless the funeral ceremonies are performed for his soul, and at that period children begot by a brother-in-law and the widow of a man who died childless became the lawful children of the deceased, and thus could perform those ceremonies, Satyavatî asked her son Vyâsa to provide a male progeny for the manes of Vichitravîrya. By one of his widows he therefore begot a son, *Dhritarâshtra*, and by another a second son, *Pându*. But as the former was born blind, and the latter with a pale complexion, which was objectionable, *Vyâsa* was induced to become the father of a third son, who should be blemishless. *Ambikâ*, however, the second widow of Vichitravîrya, who was intended for the mother of this child, did not fancy the powerful saint, for his aspect was horrifying; she therefore substituted for herself a slave girl, and the latter became the mother of *Vidura*, surnamed Kshattri. Now the progeny of *Dhritarâshtra*, who married Gândhârî, consisted, besides a daughter, in a hundred and one sons, the most prominent of whom were *Duryodhana*, "the one with whom it is difficult to fight," also called *Suyodhana*, or "the upright fighter," and *Duhsâsana*. *Pându*, again, had two wives, *Prithâ*, the sister of Vasudeva and aunt of Krishna, and Mâdrî. By the former he had three sons, *Yudhishthira*, *Bhîma*, and *Arjuna;* by the latter, twins, *Nakula* and *Sahadeva*. Prithâ, it should be added, had previously to her marriage with Pându borne a son, *Karna;* but as his birth had been miraculous, and could have been misrepresented as objectionable, it was concealed by her both from her husband and her sons, who thus remained for a long time unacquainted with their relationship to Karna. It will have been seen from this pedigree that *Duryodhana* and his brother on the one side, as well as *Yudhisthira*, *Bhîma*, *Arjuna*, *Nakula*, and *Sahadeva*, on the other, were descendants of Kuru; in tradition, however, the name of *Kauravas*, the Sanskrit word for these descendants,

is exclusively reserved for the former, the sons of Dhritarâshtra; whereas the name of *Pândavas*, or descendants of Pându, there always designates only the five princes, the eldest of whom is *Yudhishthira*. Both lines, as will have been likewise seen, were on their father's side remotely related to *Krishna;* but a near relationship between this great hero and the *Pândavas* was established through Pându's marrying their mother, Prithâ, who was the paternal aunt of Krishna. It will have been noticed, too, that *Vyâsa*, the compiler of the Mahâbhârata, is at the same time the reputed grandfather of both the Kauravas and the Pândavas; and as he is constantly represented as taking some part or other in the events recorded by him, tradition must have considered him as especially fitted to preserve a reliable account of the great war.

The events, then, which happened in the life of the Kauravas and Pândavas are the historical groundwork of the great epos. They may be briefly adverted to as follows:—

After the demise of Sântanu, who resided in Hâstinapur, the ancient Delhi, Dhritarâshtra was by seniority entitled to succeed. But as he was blind he resigned the throne in favour of his brother *Pându.* The latter became a powerful monarch, but after a time, feeling tired of his regal duties, preferred to retire to the forests of the Himalaya, and to indulge in his favourite sport, the chase. Dhritarâshtra had thus to resume the reins of government, but on account of his affliction it was his uncle Bhîshma who governed for him, and also conducted the education of his sons, who had been born in the meantime, and attained to boyhood. After a while Pându died in his mountainous retreat, and his widow Prithâ was in consequence invited by the old king to take up her residence at his court, with her five sons, so that they might be brought up together with his own. The two families thus became united, but as the education of the boys progressed, and it became

manifest that the Pândavas were superior in qualities and attainments to their cousins, the jealousy of Duryodhana was roused, and his wickedness assumed a first tangible shape in an attempt he made to poison and then to drown Bhîma. This attempt failed, like several others which succeeded it, to destroy the whole of the Pându princes, but his jealousy soon found even a stronger inducement than before to urge on his sinister designs against the cousins. A Brâhmana of miraculous origin, *Drona*, who had obtained from a still more wonderful saint a knowledge of the most mysterious and powerful weapons, and was skilled in the art of war, had on one occasion been slighted by *Drupada*, the king of Pânchâla, and resolved to take his revenge on him. To effect his purpose he repaired to Hâstinapur, and offered the king to instruct the princes in the martial arts in which he excelled. This offer was gladly accepted, and when he had completed their military education it was arranged that the princes should exhibit their skill at a public tournament, where every one was allowed to enter the arena against them. It came off, but entirely to the advantage of the Pândavas, whose valour and dexterity by far surpassed those of Duryodhana. Here it was that Karna made his first public appearance, for after the defeat of Duryodhana he offered to challenge Arjuna; and the hopes of the Kaurava princes were set on him. Yet as Karna, who was believed to be the son of a charioteer, and whom his mother Prithâ alone knew to be the son of the Sun, could not comply with the rules of the tournament, in showing that his was a noble pedigree, he himself being ignorant of his illustrious descent, he was excluded from the lists of the sham combatants. And from that time dated his enmity against the Pândavas, as he considered them to be the cause of his public disgrace. The interposition of Drona, on that occasion, prevented the outbreak of serious hostilities between the rival princes; and he even united them for a time in the acceptance of his proposal to wage war against Drupada,

who had offended him, since as the fee for his instruction he now claimed the kingdom of Pânchâla, which they would have first to wrest from king Drupada. The princes accordingly went to attack Drupada, but he defeated the Kauravas, and only yielded to the superior strength of the Pândavas. The Brâhman Drona, having attained his object, then graciously made over half of the kingdom to Drupada, and merely kept the remaining half to himself. In consequence of these events, however, the renown of the Kaurava princes having become entirely eclipsed by that of the Pândavas, and their father Dhritarâshtra even intending to install as heir-apparent to his kingdom Yudhishthira, his cousin Duryodhana planned another scheme to get rid of the obnoxious rivals. He prevailed upon his father to send the Pându princes, with their mother, on an excursion to a town, Vâranâvata, the ancient Allahabad, the pretext being a festival which was to be held there; and before them he despatched a confidant with the instruction to have a house constructed for them out of highly inflammable materials, and when they were installed in it, to set it on fire, so that they might perish in the conflagration. But this scheme also failed. Having had an intimation of it, they contrived to lodge in the doomed house a woman of low caste, with her five sons, and while these were burned they succeeded in saving their lives through a subterranean passage which previously had been made for them.

Nevertheless, to be safe from further machinations they considered it prudent to conceal their escape, and it was given out that they had been destroyed in the flames. They now assumed the garb of mendicant Brâhmans, and went to the forests, where they performed a number of miraculous feats. Bhîma had there an encounter with a giant demon, Hidimba, killed him, but married his sister Hidimbâ, by whom he had a son. They then went to a town, Ekachakrâ, where Bhîma freed the country from a cannibal, Vaka, who was the terror of the pious

anchorites. When staying there Vyâsa paid them a visit, and through him the princes were informed that Drupada would shortly institute a solemn festival, at which his daughter Draupadî from amongst the princes assembled would choose for her husband the prince who would perform the most wonderful feats. From the west and east, from the north and south, the royal suitors flocked in; and, at the advice of Vyâsa, the Pândavas, also, in their guise as Brâhmans, joined the multitude. None of the kings, however, could perform the task that had been set them as a condition of the prize, the hand of Draupadî. Karna, too, wanted to try his fortune, but he was prevented from entering the lists on account of his being, or appearing to be, the son of a charioteer. To the astonishment of the assembly, then Arjuna came forward, and by his deeds won Draupadî. An uproar ensued, since the royal suitors did not acknowledge the right of a Brâhman—as whom they took Arjuna—to compete with them, and in the fight which was the consequence Drupada would have lost his life had not Arjuna saved him, and Krishna, who had come from Dvârakâ, and seen through the disguise of the Pândavas, declared that Draupadî was his legitimate prize. Arjuna now repaired with his bride and his brothers to their mother; and the epos tells us that Draupadî was hereafter solemnly wedded first to the eldest, Yudhishthira, and, according to seniority, successively also to his other four brothers. She became, in short, at the same time the wife of all the five Pândavas, who, in order to obviate domestic conflicts, laid down certain rules, stipulating that their violation should be visited on the offender by banishment into the forests for a period of twelve years.

The Pândavas now dissembled no longer their existence and real character, and when it had become known at Hâstinapur that they were not only alive, but had for their ally the powerful Drupada, the

Kauravas resolved to make peace with them. The terms agreed upon were, that the former should continue to reign at Hâstinapur, while the latter should have the sovereignty over Khândavaprastha, the modern Delhi. At that period it so happened, unfortunately, that Arjuna entered the house of Yudhishthira when Draupadî was staying with him; and, as this was a breach of the compact they had concluded, he banished himself to the forest for twelve years, though Yudhishthira readily condoned the offence of his brother. During the period of his exile a great many events are recorded to glorify the power of this prince. The most important, however, seem to have been various love adventures, in the course of which he married Ulûpi, a serpent princess; Chitrângadâ, a daughter of the king of Manipur; and Subhadrâ, Krishna's sister, whom he carried off forcibly against the will of Krishna's brother, Balarâma, and by whom he afterwards had a son, Abhimanyu.

The reign of his brother Yudhishthira at Khândavaprastha in the meantime prospered so wonderfully, and after the return of Arjuna from his exile became so much more strengthened by a series of successful conquests which he accomplished, that he resolved upon celebrating the Râjasûya sacrifice, a ceremony which only a king could perform who had conquered all his enemies, and the attendance at which involved on the part of those who joined in it an acknowledgment of the sovereign power of the king who instituted this sacrifice. After the defeat of a last enemy, king Jarâsandha of Magadha, Yudhishthira had the satisfaction of gratifying his wish. The most powerful monarchs assembled from all parts of India to be witnesses of his greatness and splendour; and the festival would have come off without any jarring incident had not the *Argha*, or respectful offering, which had to be made to the worthiest of those present, provoked the jealousy of *Sisupâla*, the king of Chedi; for when by common consent this offering

was voted to Krishna, the king of Chedi disputed his claim to it, and by his unmeasured abuse of Krishna at last provoked the latter into a combat, in which he was slain. The very power and splendour, however, displayed on this occasion by king Yudhishthira soon became disastrous to him, for when Duryodhana, who, together with his brothers, was also among the invited guests, had become aware of the greatness which his rival had obtained, he could no longer suppress his envy, and the desire he felt to deprive him of his possessions and his wealth. As soon, therefore, as he had returned to Hâstinapur, he planned a new scheme for attaining this object. As he could not hope to be a match for the forces of the Pândavas in open warfare, and as they had already proved equal to him in cunning, he resolved to try what could be done by means of a game at hazard. Playing at dice was in the oldest time part of several sacrificial ceremonies; it had afterwards become a favourite sport of royal personages, and even special officers were attached to their courts for the arrangement and superintendence of such games. That Yudhishthira, though described as a pattern of piety and virtue, was especially fond of playing at dice was known to Duryodhana, and the latter conspired, therefore, with his uncle *Sakuni* to defeat him in such a game. The Pândavas and their wife Draupadî were accordingly invited by their relatives to be present at a banquet to be given by the old king at Hâstinapur, and when they had come a game was proposed by Sakuni to Yudhishthira. The greater skill of the former, and foul play besides, soon accomplished the evil purposes of Duryodhâna. Yudhishthira lost everything he staked,—his wealth, his kingdom, at last Draupadî too. He had even to witness the indignity which was inflicted npon his wife when *Duhsâsana,* the brother of Duryodhana, seized her by her hair and dragged her as a slave into the presence of all the assembled guests. Ultimately, however, Duryodhana consented to liberate her, and even to restore to his

cousins their territory, on the condition that they became exiles for thirteen years, and, during the thirteenth year, kept so strict an incognito that no one should be able to recognise them, or even ascertain the place of their retreat.

The Pândavas accepted these terms, and accordingly entered upon their exile, twelve years of which they spent in the forests of India. The events which happened during this long period are full of stirring incidents, and form the subject of many episodes. It must here suffice to advert only to one of them. When one day they were out hunting. and their wife was left at home alone with their domestic priest, a king of Sindhu, *Jayadratha*, passed through the forest with a large retinue on his way to the south, whither he went to obtain in marriage a princess of Chedi. But seeing Draupadî, he was so much struck with her beauty that he at once entertained the desire of possessing her. He sent, in consequence, a messenger to her hermitage to ascertain her name and lineage, and to get himself introduced to her as a guest, Draupadî, unaware of the danger which threatened her, received him hospitably according to the laws of her religion, and the more so as she recognised in him a distant kinsman. Jayadratha, however, soon disclosed his disloyal intentions, and when Draupadî indignantly repelled them, he carried her off forcibly. Soon afterwards the Pându princes returned home from their hunting excursion, and learned the outrage that had been committed on them. Off they started in pursuit of Jayadratha. He was soon overtaken and his army routed. Draupadî was released, and, after an unsuccessful flight, Jayadratha himself made a prisoner. In the end, however, Draupadî, out of regard for their relationship, interposed in his favour with her husbands, and he was allowed to depart to his own country.

The thirteenth year had now come, during which the Pândavas were pledged to assume an incognito beyond discovery. To carry out this

last part of their agreement, they resolved to assume different disguises, and to enter the service of a king *Virâta* of Matsya. When they came near his city they went accordingly to a burial-ground, concealed there their weapons and garments, and took garbs suitable to the characters in which they meant to offer their services to the king. This being done they presented themselves, together with Draupadî, at the court of Virâta, under fictitious names, and giving out that they were a party of travellers who had met with great vicissitudes in life, and now were anxious to get a livelihood in various menial capacities. Yudhishthira said he was a Brahman, and especially versed in the art of playing at dice; his word was taken, and he was engaged as teacher and superintendent of the game. Bhîma was dressed like a cook, and held a wooden ladle and a long knife in his hands. He professed to be versed in all culinary arts, and was made the head of the royal kitchen. Arjuna appeared in the garb of a eunuch, with earrings, bracelets, and the other attire of a person of that kind, and stated that he could give instruction in singing, playing, and dancing; he was, consequently, appointed companion and teacher of the royal ladies. Again, on the faith of their professions, Nakula was made master of the horse, and Sahadeva superintendent of the cattle. Lastly, Draupadî, who, from her beauty and gait, could least dissemble her real nature, but also gave a plausible account of her assumed character, was engaged as servant to the queen of king Virâta. The five brothers soon became the favourites of the royal household, for they excelled in their respective occupations. The giant Bhîma especially, who, in his power of eating and fighting, was not surpassed by any one, had an opportunity of showing himself off in a wrestling match, in which he conquered a powerful wrestler of the day who had put every one else to shame. Draupadî's beauty, however, was fated to be the cause of disturbing for a while their happiness. At the court of Virâta

there lived a mighty warrior, *Kîchaka*, who was the brother of the queen, and the commander of the king's forces. His passions were roused towards Draupadî, and he resorted to various stratagems to become possessed of her. The virtuous Draupadî resisted, of course, his advances, and after an indignity she had suffered in open court, resolved to accomplish his destruction. She simulated, therefore, compliance with the wishes which Kîchaka soon again repeated to her, and made an appointment with him during the darkness of midnight in the dancing room. Her husbands were apprised of the scheme she had planned, and which consisted in Bhîma's putting on female attire, and while personating her, dealing with Kîchaka as he deserved. When the appointed hour had arrived Kîchaka came; but Bhîma meeting him, a fight between them ensued, in which Bhîma put his adversary to death. As in the morning his dead body was discovered, and in a fearful condition, too, every one thought that no human power could have effected the destruction of so powerful a man as Kîchaka, and it was generally assumed that some Gandharvas, under whose divine protection Draupadî professed to be, had avenged her on Kîchaka for his illicit desires. Nevertheless, the followers of Kîchaka made an attempt to burn Draupadî with his body, as if she had been his legitimate wife, and it required another effort on the part of Bhîma to avert this danger from the Pândavas. Virâta and his court now held Draupadî in especial awe; but the death of Kîchaka proved of consequence also in other respects. While he lived the renown of his prowess was so great that it held in check all the enemies of his brother-in-law, the king. As soon, therefore, as spies from the city of Virâta had spread the tidings of his death, their former designs and hopes revived. Among these enemies were especially *Susarman*, a king of Trigarta, and *Duryodhana*. As the former happened to be on a visit at the court of Hâstinapur when the news of Kîchaka's death

arrived, he at once planned with Duryodhana a campaign against his old rival and foe. Accordingly Susarman broke into the territory of Virâta, and so successful was his inroad that he even made Virâta his prisoner. But when Yudhishthira and his brother learned the misfortune that had befallen their protector, he, together with Bhîma and the younger brothers, at once set out in pursuit of Susarman, who had gone to the north, and they not only liberated Virâta, but completely defeated his enemy. While these events, however, passed in the north of Matsya, Duryodhana invaded from the south the territory of Virâta. The forces of this king having gone out to meet Susarman, the country was deprived of all its defenders, Uttara alone, the son of Virâta, and Arjuna, the supposed eunuch, with some servants, being left to offer resistance to the hostile force. Uttara was merely a boy, and Arjuna therefore undertook the defence of the country, first in acting as charioteer to the young prince, and afterwards, when the latter despaired, as principal in a combat with Duryodhana. In spite of their greater numbers, the Kauravas were completely defeated, but allowed to depart to Hâstinapur.

At the time when these events occurred, the thirteenth year of the exile of the Pândavas had expired. Soon after the return of Arjuna to the capital of Virâta they disclosed, therefore, as they were now free to do, their real character to the king, and made an alliance with him, which was still more strengthened by Virâta giving his daughter Uttarâ in marriage to Abhimanyu, the son of Arjuna by Subhadrâ.

By virtue of their compact with the Kauravas, the Pândavas had now regained their title to the kingdom, which they had been temporarily obliged to quit. But they well foresaw that their cousins would not of their own accord reinstate them into their territories. They convened therefore a council to deliberate on the steps they should take. It was attended by all the allies of the Pândavas, especially by king Drupada,

their father-in-law, king Virâta, and the two mighty brothers Krishna and Balarâma, who had come from Dvâraka; and there it was resolved that the Pândavas and their allies should fully prepare themselves for battle, but, before declaring war, try the effect of peaceable negotiations first. For this purpose, then, the family priest of king Drupada was despatched to the Kauravas, but without result; and in return an embassy was sent by Dhritarâshtra to the Pândavas. This also proved of no avail, for though the Pândavas were willing to declare themselves satisfied even with the cession, on the part of the Kauravas, of five small towns, the latter remained obstinate in not yielding up any portion of the territory claimed by their cousins. A last attempt at reconciliation, made by Krishna himself at Hâstinapur, was also unsuccessful, and the great war between the two rival families became henceforth unavoidable.

The two parties, with their respective allies, now chose for the battle-field the large plain of Kurukshetra, which seems to have been situated to the north-west of the modern city of Delhi, and there entrenched their camps. The Kauravas then appointed for their commander-in-chief their uncle, the veteran *Bhîshma*. Challenges preceded the outbreak of the regular hostilities, and both the Kauravas and the Pândavas agreed on certain rules which they promised to keep, that on both sides the war should remain an honest war. Thus they stipulated to fight each other without treachery, not to slay any one who would run away or throw down his arms, not to take up arms against any one without giving him warning; no third man should interfere when two combatants were engaged with each other, horsemen should only fight with horsemen, footmen with footmen, warriors in chariots with warriors in chariots, and riders on elephants with riders on elephants. By these and similar rules it was thus intended to conduct this war according to the notions which the military caste at that period entertained of military honour.

There now ensued a series of battles—chiefly consisting of single fights—which lasted for eighteen days. For the first ten days the command-in-chief belonged to the aged and wise Bhîshma; yet however great his valour, he at last succumbed. Pierced by arrows he fell from his chariot upon the ground, and Arjuna and the other chiefs of the Pândavas comforted their dying relative. But Bhîshma did not yet give up the ghost; he lingered on for fifty-eight days, when his soul went to heaven. The generalissimo of the Kaurava army who succeeded him was *Drona.* He fell five days after he had assumed the command; and this interval was especially marked by the death of Abhimanyu, the son of Arjuna, who, contrary to the rules agreed upon, was attacked and slain by Duhsâsana and four other warriors, while the wicked Jayadratha, known already for his attempt at ravishing Draupadî, prevented the Pândavas from rescuing the luckless youth. Duhsâsana escaped this time the consequences of his ill deed, but Jayadratha was killed by Arjuna. Drona, too, however, was the victim of a stratagem on the part of the Pândavas, who thus likewise violated the rules of the war. For when Bhîma fought without avail against the warrior Brahman, the Pândavas spread the rumour that *Asvatthâman* was dead; and Drona, not knowing that the Pândavas had on purpose called an elephant Asvatthâman and allowed him to be slain, but believing that his own son bearing this name had fallen in battle,—Drona, disheartened by this news, laid down his arms, and suffered his head to be cut off by *Dhrishtadyumna*, a brother of Draupadî. Drona's successor was *Karna;* but his command only lasted two days, for at the end of this short period he was slain by Arjuna. His successor was *Salya,* who commanded but one, the eighteenth day of these battles, which terminated in the complete defeat of the Kaurava forces. This last day, however, was marked by an act which again proved that the Pândavas also could depart from the rules of honourable warfare.

When Duryodhana had fled and hid himself in a safe retreat, he was discovered by the Pândavas, and, after a time, prevailed upon to fight again. His condition, however, was that he should be allowed to fight with his mace, and according to the received rules of such a duel. The challenge was accepted by Bhîma, who was a great adept in the use of the mace; but when he found that even his great skill failed against the superiority of Duryodhana, he struck the latter such a violent blow on his right thigh, that it smashed the bone and felled him to the ground. Yet in fighting with the mace it was contrary to all rule to strike below the waist, and the victory of Bhîma over Duryodhana was thus merely due to foul play. Bhîma was called, therefore, the "foul-fighter," while Duryodhana on that occasion earned the epithet of the "fair-fighter."

The Kaurava army was now completely destroyed, and only three warriors of it survived, *Asvatthâman*, the son of Drona, *Kripa*, the adopted son of Sântanu, and *Kritavarman*. When they found Duryodhana on the point of death, and heard of the treachery of Bhîma, they vowed to take their revenge on the Pândavas. These had meanwhile after the defeat of the hostile forces, taken possession of the Kaurava camp, and installed themselves there, while Draupadî and her sons, together with the remnant of their army, had been ordered to occupy their own camp. Now, when the night had come, and all were sleeping in apparently the most perfect security, the three surviving warriors of the Kauravas entered the camp of the Pândavas, and there murdered the five sons of the Pândavas, the whole family of Drupada, and every male belonging to the army of the Pândavas. After this they hurried off to Duryodhana, who was still alive, to bring him the news of the manner in which they had fulfilled their horrible vow, and then fled for their lives to their respective countries. Duryodhana now died, and the Pându princes, after the fate that had befallen them, wished

to effect a reconciliation with Dhritarâshtra and his wife Gândhârî, to whom they were now left as the nearest relatives. The old blind king came to the battle field, and apparently forgave them; but he could not forget the foul play of Bhîma towards his son Duryodhana, and by a ruse would have killed him had not the foresight of Krishna saved Bhîma's life.

The next care of Yudhishthira and his brothers was the performance of the funeral ceremonies in honour of the fallen dead, and when this duty on their part was fulfilled he entered the city of Hâstinapur, where, under the nominal sovereignty of Dhritarâshtra, he was installed junior king. His heart remained, nevertheless, filled with sorrow, and he felt a strong wish to pay a parting visit to his uncle Bhîshma, who lay still alive on his bed of arrows, as he hoped to obtain from him consolation in his grief. He repaired to him, and Bhîshma, agreeably to his wishes, instructed him in all his duties. This was the last, and by no means least wonderful performance of Bhîshma's; for the instruction in all matters relating to this and the future world which he conveyed to Yudhishthira, while transfixed with arrows, and his head resting on a pillow of arrows, does not occupy less than above 20,000 verses in the Mahâbhârata.

The reign of Yudhishthira now having been securely established, his next desire was to obtain its acknowledgment by the other kings of India, and to effect this he performed the great sacrificial ceremony known as the Asvamedha, or horse sacrifice. Hitherto that portion of the family which had survived the great war lived together, and in apparent happiness. Dhritarâshtra alone could never forget the treacherous conduct of Bhîma in his club fight with Duryodhana, and Bhîma, too, lost no opportunity of slighting the old king. The latter, therefore, resolved upon renouncing the throne and retiring to the forest, where he intended to pass the remainder of his life as an

anchorite. He therefore left Hâstinapur, together with his wife Gândhârî, with Prithâ, the mother of the Pândavas, and their uncle Vidura, and proceeded to the woods. There first Vidura died, and later the rest of the royal exiles perished in a forest conflagration. When the news of their death reached the Pândavas they were deeply afflicted by it; but when some time later they also received the tidings of Krishna's death, and the destruction of his town, Dvârakâ, their heart was so much overcome with grief that they, too, became determined upon renouncing their royal position and the world. Accordingly they set out on a long journey towards mount Meru, where they hoped to obtain admission into Indra's heaven. Through many countries they wandered, Yudhishthira walking on foot, followed by Bhîma; then came Arjuna; then, in order, the twins Nakula and Sahadeva, and last of all came Draupadî. Behind them walked a faithful dog. By degrees they reached the shore of the sea, and here Arjuna cast into the waves his bow and quivers. Gradually, however, the strength of the royal pilgrims failed. Draupadî sank first, and the others successively, until Yudhishthira alone and the faithful dog remained. At last Yudhishthira reached the heaven of Indra, but the dog was refused admittance to it by the god. The king insisted, nevertheless, on remaining with his faithful companion, and it then turned out that Indra, by his resistance, had merely tried Yudhishthira's constancy, since the dog was no other than the god of justice himself, and the real father of king Yudhishthira. To his surprise, however, Yudhishthira found in Indra's heaven Duryodhana and his other cousins, but not his own brothers or Draupadî. And when he was told that these were confined in one of the hells to expiate their sins, Yudhishthira resolved to share in their fate, instead of remaining alone in heaven. He proceeded, therefore, to the fearful hell where they were, and was about to undergo the miseries to which his brothers were doomed, when it

became manifest that all had been an illusion, and this his last trial. For Indra, to test his attachment for his relatives, had created a vision, which now vanished away, and after Yudhishthira had bathed in the heavenly Ganges he found himself re-united with his whole family in the heaven of Indra. And thus ends the story of the great war and the reign of the most virtuous of the Pândavas.

In giving this bare outline of what may be called the historical portion of the Mahâbhârata, we have had to be ruled by considerations of space, and an estimate of what we thought might be the amount of forbearance possibly granted by an indulgent reader who, in a weak moment, professing an interest in Hindu epic poetry, had suddenly found himself taken at his word. We therefore at once confess some remorse at the havoc which such a rapid sketch has had to make of the contents of the great poem. But lest, by dint of condensing and curtailing, it might even cause a doubt as to how such a simple narrative could have been worked into a bulk of verses like that described, and into one though of unequal yet great poetical worth, we must come to the aid of the reader's imagination with at least a few additional remarks.

We need not dwell on the chance which was given to the poet when he had to describe the battles of eighteen days, each of which was a series of single combats, nor on the eloquence he could display when giving a picture of the great councils held both at the court of Dhritarâshtra and that of Virâta previously to the first battle, or of the messages exchanged between the Pândavas and Kauravas. We need likewise not point to the wide scope for poetical embellishment where the amours of Arjuna during his exile, or kindred subjects, are told, or where the scene is described when the mothers and wives of the fallen warriors visit the battle-field, and give themselves up to the expression of their grief. Themes like these will always be a fertile source for the

poet's muse, whether he be Vyâsa or Homer, Valmîki or the author of the Niebelungenlied. But another field, and a large one too, in which the Hindu poet could travel at his ease, might not so readily appear from the meagre narrative just offered. The personages that have been named in it, their pedigrees and their lives, have been represented there as if we were writing history. But in the Mahâbhârata all the leading characters are raised beyond the sphere of ordinary human life. Their birth is miraculous, and their acts defy the standard of human acts. They constantly associate with gods: their palaces are of divine grandeur; their armies count by millions; their wealth is inexhaustible; time and distance vanish before their deeds. In epic poetry there must always be fictions of a kindred character, or else it would no longer be epic poetry. But in Homer, for instance, such fictions are rather hinted at than dwelt upon at length; as a rule, where dealing with mortal heroes he allows us to feel at home in the sphere of human possibilities. In Hindu epic poetry, on the contrary, the supernatural halo which surrounds every personage of consequence becomes a heavy reality, which forcibly, and for a considerable time, arrests our attention, and withdraws it from the main story, which it originally was intended merely to brighten up. Thus the miraculous births of Vyâsa, Pându, Drona, of Prithâ, and Draupadî, not to speak of Krishna, and of many more leading characters, become centres of interest for themselves, though this interest is foreign to the main story of the great war. All, in short, that lies on its bye-roads assumes an importance of its own, and these bye-roads themselves multiply the farther we advance. Nor by adverting to this difference which distinguishes the character of the epic poetry of the Mahâbhârata from that of ancient Greece do we as yet allude to what is purely episodical in the Hindu epos. By the latter we here understand all that could be easily cut out from the main story without in the least affecting its

mechanism or even its poetical worth—all, in short, that, at first sight as it were, proves to be an extraneous addition, whatever the motive be for which it was made. Thus, when the divine sage Nârada pays a visit to the Pându princes after their marriage with Draupadî, and in order to warn them against the conflicts that might arise from their polyandric arrangement, relates to them a story of two giant brothers, who from love to a beautiful woman became deadly enemies, and ultimately perished by their own hands—the whole incident, visit, and story, merely intrude into the midst of the main narrative, and may readily be eliminated from it. Or when the same sage pays another visit to Yudhishthira before he performed the Râjasûya sacrifice, and gives him an account of the divine palaces of the different gods, which in his roamings through the heavens he had seen, the account itself is interesting, and even poetical, but to the main story entirely superfluous. In a similar manner, after Yudhishthira had lost everything in the game at dice, and when he was living in his forest exile, his grief is soothed by a Saint Vrihadasva, who arrives *à propos*, and tells him the story of Nala and Damayantî, which in several respects was similar to his own. Again, another great saint, who likewise turns up as a *deus ex machina*, when Jayadratha had been frustrated in his attempt at ravishing Draupadî, consoles Yudhishthira by reminding him that in times of yore another hero, Râma, had met with a similar fate to his; and as the king becomes curious, he gratifies him with the whole story of the Râmâyana in the condensed shape of about 750 verses. Or to give an instance or two of episodes of another character, which are readily recognized as such. When Arjuna went into exile, and lived the life of a penitent addicted to meditation and practising severe austerities, his brothers became saddened by the loss of his company, and Yudhishthira especially felt deeply aggrieved by it. Happily for them, Nârada arrived again, and delivered to them a long

discourse on the results of piety, and the boons that accrue to a man who visits holy places of pilgrimage. The description of these, together with numerous legends connected with them, occupies about 7400 verses. On the first day of the great war, when both armies were drawn up and ready for battle, Arjuna felt troubled in his mind at the prospect of causing the destruction of so many human lives, and communicated his scruples to Krishna, who promised to act for him as charioteer. Krishna at once allayed his conscience with the celebrated discourse on the Yoga philosophy, the Bhagavadgîtâ, in about 1000 verses; and, as allusion has already been made to the more than 20,000 verses in which Bhîshma, wounded to death, conveyed consolation and instruction to Yudhishthira when he paid him a parting visit, they, too, may be recalled as a last instance of that episodical matter which, as already mentioned, fills about three-fourths of the Mahâbhârata, and may readily be separated from the leading story, that of the great war.

The task, however, of separating the main story from all that matter, which though now closely interwoven with it, may not originally have belonged to it, is one beset with far greater difficulty than that of distinguishing between the story itself and its episodical exuberance. Whether every personage whose name is recorded in the eighteen days' war performed the acts with which he was credited: whether the speeches were delivered as they are reported: whether the women were as beautiful as they are described, and the kings as wealthy and powerful as they are represented to be—all these and similar subjects might seem of comparative indifference, if poetical and antiquarian interests are set aside, for which even such material has a significance. But by disallowing the historical reliability of such material, the question is not yet settled whether it may not have belonged to the oldest account of the great war, and whether, therefore, it may not represent the oldest portions of the Mahâbhârata. Again, supposing

this question had been satisfactorily solved, there remains the further problem of determining what portion of the story may lay a claim to historical authenticity, for in the shape in which it is handed down to us, no portion of it is without its mythical and legendary alloy.

The position taken by Professor Lassen in dealing with the latter of these problems is that of considering the leading characters of the story, not as persons, but symbolical representations of conditions and events. Names and facts thus assume to his mind a different value to what they would seem to have. *Pându,* for instance, the father of the Pândavas, he interprets as the first appearance in history of the Pândavas, and *Dhritarâshtra*—"by whom the kingdom is upheld"—as he survived the great war, is to him the continuance of the power of the Kauravas till the return of the Pândavas. *Arjuna,* again, a word which literally means "light," and *Krishna* "the black," as well as Draupadî, who is also surnamed *Krishnâ,* "the black," would, according to him, designate the second and third periods of the history of the Pândavas. Their marrying Draupadî, the daughter of Drupada, would be a symbolical indication of their political alliance with this king of Panchâla, when their "unnatural" relation to Draupadî would lose its offensiveness. And that there were five Pându princes would follow from there also being five tribes of the people of Panchâla. Moreover, their connexion with Krishna—originally a hero of the Yadu race, and identified by Professor Lassen with the Herakles of Megasthenes, who gives him a daughter, Pandaia,—would symbolically indicate the extension of the dominion of the Pândavas to the south; and this view he finds also confirmed in a tradition which connects Arjuna by marriage with Subhadrâ, the sister of Krishna,—Subhadrâ meaning "the woman who brings much prosperity." Bhîma, who in the epos is the brother of Arjuna, and is represented as the special enemy of Duryodhana, Professor Lassen looks upon as a successor of Yudhish-

thira, and as having been made, at a later period, a contemporary of Arjuna; and as for the twins, Nakula and Sahadeva, the sons of Mâdrî, he assigns to them a still more remote period in the history of this family, in considering them as the founders of an empire in the Eastern Punjab. The Pândavas would thus, according to Professor Lassen, be properly speaking a symbolical personification of the Aryan conquests, pushing on from the northwest to the east, and gradually extending all over India, and the individuals bearing this name would therefore symbolically represent the various periods which might be assigned to these conquests. The final battles, too, would then likewise not be so much the combats between two rival families, as the end of a great national struggle, in which the fate of the principal peoples of India was concerned.

We cannot, of course, here follow in detail the results of this most ingenious method, by which Professor Lassen endeavours to reconcile discrepancies in the narrative of the great epos, and to transform the improbable stories recorded in it into plausible and real events. It may be inferred, however, even from this meagre statement, that there are very few facts indeed which, as related by the epos, he would accept as real. For, according to his reasoning, the legendary element would have so strongly and so constantly vitiated the historical basis of the story, that without a special process of interpretation this basis could never be reached.

Mr. Wheeler is also inclined to view the history of the Pândavas as embodying events belonging to different epochs of the ancient history of India.

"If the Pândavas," he says (p. 104) "may be accepted as the representatives of the Aryan race, it would appear from the story that they had advanced far away to the eastward of the Aryan outpost at Hâstinapur, and had almost reached the centre of the land of the aborigines.

This direction was undoubtedly the very one which was eventually taken by the Aryan invaders; that is, they pushed their way from the Punjab towards the south-east, along the fertile valleys of the Ganges and Jumnâ, until they arrived at the junction of the two rivers at Allahabad. Probably, as already indicated, this migration occupied a vast period of unrecorded time, and the Aryans may not have reached Allahabad until ages after the Kauravas and Pândavas had fought their famous battle for the little Râj at Hâstinapur. But when the story of the war of the Mahâbhârata had been converted into a national tradition, it seems not unlikely that the legends of the later wars waged by the Aryans against the aborigines, during their progress towards the south-east, would be tacked on to the original narrative. This process appears to have been carried out by the compilers of the Mahâbhârata, and although . . . . the adventures of the Pândavas in the jungle, and their encounters with Asuras and Râkshasas are all palpable fictions, still they are valuable as traces which have been left in the minds of the people of the primitive wars of the Aryans against the aborigines."

In spite, however, of the coincidence of these general views of Mr. Wheeler with those of Professor Lassen, the former recognises in the story of the great epos far more solid historical ground than the latter. Not only does he accept the tradition of the five Pàndava brothers as being contemporaries; but he also accepts as historical their polyandric marriage with Draupadî, who thus to him is a real personage. And the great war he takes, what it purports to be, for a contest between two rival families, ending in the destruction of the one and the victory of the other; not for a national war, embodying in its events different epochs of ancient India. Mr. Wheeler's process of separating fiction from truth is, therefore, wholly different from that of Professor Lassen. While the latter accepts the grand dimensions which the epos assigns to the events narrated in it, and adapts its principal personages to these

dimensions, in raising men beyond what they would be as simple individuals, Mr. Wheeler, on the contrary, accepts the leading personages as real, and lessens the dimensions so as to fit the reality of these characters. Thus, while Professor Lassen lays stress on the names of the peoples which are recorded as having been arrayed against each other in the eighteen days' battle, and endeavours to show that the battle-field could not have been merely the limited plain of Kurukshetra, but must have extended over an area which had for its boundaries in the west the Indus, in the east the Ganges, in the north the Himâlaya, and in the south the sea—to Mr. Wheeler's mind all these innumerable armies are merely exaggerations, and all that is told of their deeds is past credibility. According to him, no such war in all probability took place.

"The contest," he says (p. 292), "did not depend upon the engagements of armies, but upon the combats of individual warriors; and indeed, so much stress is laid upon these single combats, that the innumerable hosts, which are said to have been led upon the field, dwindle down into mere companies of friends and retainers. Again, it will be seen that whilst the Brahmanical compilers love to dwell upon combats with magical darts and arrows, which could only have been carried on when the enemy was at a certain distance; yet the decisive combats were those in which the rude warriors on either side came to close quarters. Then they fought each other with clubs, knives, and clenched fists; and cut, and hacked, and hewed, and wrestled, and kicked, until the conqueror threw down his adversary and severed his head from his body, and carried away the bleeding trophy in savage triumph."

From the same point of view, Mr. Wheeler disenchants us in regard to the extent of the royal power ascribed to the Kauravas and Pândavas. While their kingdoms are described as extending over a vast country, he

reduces the Râj of Hâstinapur to a certain area of cultivated lands and pastures, which furnished subsistence for a band of Aryan settlers ; and the Pândavas founding a glorious kingdom at Khândavaprastha and conquering the earth, would mean, according to him, their proceeding from the banks of the Ganges to those of the Jumnâ; thus clearing the jungle, founding a new Râj, and establishing a supremacy over every bordering enemy. In perfect consistency with his line of argumentation, Mr. Wheeler therefore also discards as historical those traditional connexions between the Pândava family and other princes which would seem to be opposed by geographical difficulties; or he assigns to those princes localities different from those which the epos would allow them to occupy. He disbelieves, for instance, the tradition which marries king Vichitravîrya, the son of Sântanu, to two daughters of the king of Kâsî or Benares; for this tradition allows Bhîshma to drive to Benares in his chariot and back again with these young damsels; but as Benares, he says, is five hundred miles from Hâstinapur, as the crow flies, the whole story is improbable and the result of a later manipulation. Or since Panchâla, if identified with Kanouj, as it generally is, would be at least two hundred miles from Hâstinapur, Mr. Wheeler concludes that the country of that name governed by Drupada—against whom Drona and the Pândavas waged war—cannot have been Kanouj, but probably was "a little territory in the more immediate neighbourhood of Hâstinapur" (p. 97). Again, the frequent and easy intercourse between Krishna and the Pândavas, as described in the Mahâbhârata, becomes, for a similar reason, also a matter of doubt.

"At the time," Mr. Wheeler argues (p. 459), "when Krishna is said to have first come into contact with the Pândavas, he and his tribe had already migrated to Dvârakâ, on the western coast of the peninsula of Guzerat, which is at least seven hundred miles from Hâstinapur, as the crow flies. Accordingly, it seems impossible that such relations as

those said to have subsisted between Krishna and the Pândavas could really have existed; and this suspicion is confirmed by the mythical character of every event which apparently connects the Yâdava chieftains of Dvârakâ with the royal house of Hâstinapur."

It is with regret that we must here arrest our desire to afford more illustrations of the critical method which Mr. Wheeler pursues in scanning the leading story of the Mahâbhârata; for the more consistently he applies it to every event of special consequence as narrated in the epos, and the more attractive the manner in which he puts forward his arguments, the less are we able, within these limits, to do justice to his criticisms; but, however valuable they are, and however much we agree with many conclusions at which he has arrived, we nevertheless believe that the time is as yet distant when a final verdict can be pronounced on what is really historical in the great epos, or when it will even be safe to decide on the critical method by which such a verdict is to be obtained.

We would, for instance, be as little inclined to submit the events of the great war to Mr. Wheeler's geographical test, as to look with Professor Lassen upon Draupadî as a mere allegorical expression of the link which connected the Pândavas with king Drupada. It is quite true that, considering the political and social condition of ancient India, visits at a distance could not be paid, nor armies transferred, or expeditions made, without much loss of time. When in the epos, therefore, the most distant places are reached as it were instantaneously, such occurrences might be declared impossible. But that which is really impossible in the account of them is merely the disregard of time, not the fact itself. Time, however, as will be conceded by every-one familiar with Sanskrit literature, is a category apparently foreign to the ancient Hindu mind. In Sanskrit poetry, therefore, a test of time ceases to be a test. Hindu epic poetry is, for this very reason, not

amenable to the Aristotelian canon of epic poetry, because the Hindu mind, unlike the European, did not obey the laws of time. An episode of twenty thousand verses, as that of Bhîshma's instructing Yudhishthira when lying on his bed of arrows, would in European literature be an impossibility, not on æsthetical grounds alone, but because no European mind could realize the possibility of a narrative being stayed for such an amount of time as the delivery of so many incidental verses would occupy. In Hindu epic poetry, however, such an interruption is regarded as none; it is received as the legitimate fate of a narrative, and no Hindu critic ever objected to it as antagonistic to probabilities based on considerations of time. So little, indeed, has any native critic ever objected to the massing up of all the other episodical matter of the great epos, though it entirely destroys that unity which we would require in it, and a demand for which is based on a due conformance to the law of time. Such, however, being the characteristic feature of the Hindu mind, as shown by its national poetry, it would follow that no credence whatever can attach to any statement in regard to time recorded in it, unless supported by interior or collateral evidence. We should on this ground, therefore, see no objection to the theory of Professor Lassen, which assumes that various periods of ancient Hindu life are in the history of the Pândavas blended into one, did not the tradition of their polyandric marriage with Draupadî, as we hold, throw a considerable doubt on it; for this marriage, which implies the coevalness of the Pândavas, we believe to be a historical reality, and one which might also become a guide in the search for a critical standard to test other facts related in the Mahâbhârata; but as such a standard may afford some light, however dim, in the dark chronology of the ancient epos, we will briefly explain what we understand by it.

We take it for granted that the Mahâbhârata is a traditional record of an early period of Hindu history, compiled, however, by eminent

men of the Brahmanical caste, and modelled by them to suit a special purpose of their own, that of imposing their own law on the Kshattriya, or military caste. The fabric of the great epos was not built up at once. Different times supplied different materials for it, and with the importance of the object the greatness of the task increased. These materials, as Professor Lassen himself has in several instances shown, sometimes underwent the treatment of various editors; but the chief object of all these editors, arrangers, and modellers, always remained the same—to demonstrate the necessity and sanctity of the Brahmanical law. In dealing, then, with the traditional lore of the military caste, the Brâhmanas would have to meet three categories of facts. One category would comprise those facts which were more or less in accordance with the religious and political system to be established or consolidated by them; another would comprise facts, if not in harmony with, yet not antagonistic to it; a third category, however, would be absolutely opposed to it, since not all the ancestors of the Kshattriyas, who had to be represented as belonging to the common stock, were of Aryan origin, or professed the orthodox faith. The most, of course, would be made of the Brahmanical compilers of the first of these categories of facts; it would naturally become the basis on which they would proceed. The second category might appear inconvenient, but it could be tolerated by them; or since, in the work of different ages and different minds, even inattention is not impossible, we could imagine that it might escape a close scrutiny. But the third category could admit of no compromise; it had to be suppressed or to be explained away. And we should conclude that if parts of this category *were* explained away, this was merely done because they could not be suppressed, as being too deeply rooted in tradition, and consequently, as having the strongest presumption in favour of their authenticity. Now, of all traditions related in the Mahâbhârata, there is, on the face of them, none more opposed to the

spirit of the Brahmanical religion than this "five-maled" marriage of Draupadî. Polyandry, it is unnecessary to say, never found any place in the Brahmanical code, or in the habits of the Hindus, as we know them from their literature; and if, in spite of its thorough offensiveness, it nevertheless was imputed to the very heroes of the ancient epos, there seems to have been no alternative but to admit it as a real piece of history. Professor Lassen, as we have seen, assumes that this tradition involves an allegory. But either polyandry existed as an institution when this allegory was made—in that case there is no ground for considering a polyandric marriage as an improbable event in the history of the Pâṇdavas themselves—or it as little existed in their time as in the later history of India. In that case, however, it would have offended the national sentiment, and no allegory of this kind could have entered a poet's mind, or obtained currency. The Brahmanical compilers not being able to suppress this fact, endeavoured therefore to explain it away; but the very manner in which they strove to make it acceptable, shows the difficulty they experienced, and the stubbornness of the fact. When Drupada is apprised by Yudhishthira that he and his four brothers have resolved to make his daughter their common wife, he is represented by the Brahmanical compiler as shocked at the idea of such a proposal, and says to him, "It is lawful for one man to take unto him many wives, but it is unheard of that many men should become the husbands of one wife. You who know the law, and are pure, must not commit an unlawful act, which is contrary to usage and the Vedas. How can you conceive such a thought?" When Yudhishthira replies, "The law, O king, is subtle; we do not know its way. *We follow the path which has been trodden by our ancestors in succession.*" But the king not being satisfied with this answer, Yudhishthira pleads precedents:—"In an old tradition it is recorded that Jatilâ, of the family of Gotama, that most excellent of moral women, dwelt with

seven saints; and that Vârkshî, the daughter of a Muni, cohabited with ten brothers, all of them called Prachetas, whose souls had been purified by penance." Then Vyâsa interferes; and in order to explain to the king the lawfulness of polyandry, relates a legend, which consists of two parts. From its first part, however, we merely learn that the gods, at a sacrifice celebrated by them, expressed to Brahmâ their fear at seeing mankind multiplying excessively, and not dying; when Brahmâ assures them that Death, being much engaged just now, would soon resume his office, and put an end to men. In the second portion of this legend, Vyâsa shows that the five Pândavas are incarnations of Indra, that Draupadî is an incarnation of Vishnu's consort, Lakshmî, and consequently, that though apparently married to five men, she would in reality become the wife of one husband only.

The last of these explanations is a Brahmanical one; that which one would expect to receive from a Hindu priest. The third may be thought suggestive, but the first two are full of significance. The story of the god of death being busy sacrificing, and therefore neglectful of his duties, and of Brahmâ's consoling the other gods in their perplexity, is so loosely tacked on to the legend of the incarnation of Indra and Lakshmî, that as a justification of polyandry it would seem meaningless. But the fear of an excessive increase of mankind, as expressed by the gods, is suggestive, perhaps, of the real cause of polyandry. The two arguments, however, brought forward by Yudhishthira, can leave no doubt that polyandry was an institution in India, though in pre-Brahmanical times, and that instances of it were still in the memory of men.

But if this marriage of Draupadî *is* a real event, it throws at once the life of the Pândavas into such a remote period of Hindu antiquity as to leave behind not only Manu, the oldest representative of Hindu

law, but even those Vedic writings of Âsvalâyana and others, on which the ancient law of India is based.

It remains to be seen, however, whether there are not other facts recorded in the history of the war which likewise are at variance with this law, but were not, or could not, be suppressed by the compilers of the Mahâbhârata. For if there are, they would still more strongly corroborate the conclusion we have drawn, and indicate a standard by which to test the age and the historical reliability of the record itself.

We will point to a few such facts which would seem to belong to this category.

The institution of caste, as Mr. Muir, in his excellent work, has proved, did not exist at the earliest Vedic period. It was fully established, however, and circumscribed with stringent rules at the time when the code of Manu was composed. At the Vedic period a warrior, like Visvâmitra, for instance, could aspire to the occupation of a Brâhmana, and a Brâhmana, like Vasishtha, or the son of Jamadagni, could be engaged in military pursuits. At the time of Manu such a confusion of occupations, as an orthodox Hindu would say, was no longer allowed; it recurs only at the latest period of Hinduism. Yet in the history of the great war we find the Brâhmana Drona not only as the military instructor of the Kauravas and Pândavas, but actively engaged in a war against Drupada; we find him, too, as king over half the kingdom of Pânchâla, and finally, as one of the commanders-in-chief of the Kauravas. Nor do the compilers of the Mahâbhârata even try to explain this anomaly; for when in the third book of the epos it is said that Drona and some others joined Duryodhana "because their mind was possessed by the demons," such a remark might seem to imply that Drona, having become impious, would also be capable of violating the rules of his caste; but even if it did, it could, at the utmost, only refer to the part

he took in the hostilities of the Kauravas against the Pândavas; it would not palliate the facts of his previous history, as told in the first book of the Mahâbhârata, where he is described as a Brâhmana. The case of his son, Asvatthâman, is even worse: he is not only an active combatant in the great war, but it is he who conceives and carries out the terrible revenge which ends in the treacherous slaughter at midnight of the Pândava forces. In the tenth book, which describes the wicked proceedings of this Brâhmana, he is made to descant on the duties of the castes, which he then describes in perfect conformity with the law of Manu, and to express a regret that his "ill-luck" caused him to follow the pursuits of a Kshattriya. But the only attempt at an excuse for his conduct which the compilers put into his mouth, is contained in the words, "As I have now at will taken upon myself the duties of a soldier, I shall enter upon the path of a king, and that of my high-minded father."

Another fact which, after the establishment of caste, must have been highly objectionable, but could not be eliminated from the epos, is the disguise of the Pândavas. "False boasting of a higher caste," is an offence which Manu considers so grave that he ranks it together with the killing of a Brâhmana; and there could certainly be no greater danger to the preservation of caste than the possible success of false pretenders. We have seen, however, that the chief personages of the great epos, the Pândavas, though Kshattriyas, assume the character of Brâhmanas, and even retain it at the tournament of Drupada: that Yudhishthira, too, resorts to the same "false boasting of a higher caste" a second time when he offers his services to King Virâta. Had it been possible to suppress such a dangerous precedent, there is little doubt that the Brahmanical arrangers of the national tradition would not have held up their military heroes as successful violators of the law which they were bent on inculcating to the Kshattriyas.

We will allude to another *class* of passages in the Mahâbhârata, which, perhaps, still more forcibly prove that the events to which they relate must have been historical, and anterior to the classical state of Hindu society. We mean those events which bear on the law of marriage and inheritance. There are portions of the great epos where the statements made in regard to these important laws are in perfect harmony with the ruling of Manu or later lawgivers; but there are other passages, too, where the discrepancy between their contents and the law books is palpable. Nor is it possible to assume that the occurrences mentioned in those passages are innovations on Manu and the lawgivers: the contrary is the case. It is Manu who criticises them, and rejects their authoritativeness. A few instances will indicate the direction in which the reader of the epos might trace the facts of which we speak.

In the brief outline given above of the contents of the epos, mention has been already made of the circumstance, that king Vichitravîrya died childless, and to provide for the salvation of his soul his half-brother, Vyâsa, begot for him two sons by his two widows, and at the time, believed that he was begetting for him even a third son when he approached the slave girl, who personated Ambikâ. Now, in regard to this practice to raise children for a deceased relative who died childless, Manu expresses himself in these terms:

"On failure of issue by the husband the desired offspring may be procreated either by his brother or some other near relative, called Sapinda, on the wife who had been duly authorised. Anointed with clarified butter, silent, in the night, let the (kinsman thus) authorized beget one son on the widow, but a second by no means. Some who understand this (law), and hold that the object of their authorization might remain unaccomplished, are of opinion that it might be lawful

to beget a second offspring on women. . . . By twice born men (*i.e.*, Brâhmanas, Kshattriyas, and Vaisyas) no widow must be authorized (to conceive) by any other (than her own lord); for they who authorize her (to conceive) by any other violate the primeval law. (Such) an authority (given to her) is nowhere mentioned in the nuptial hymns of the Veda, nor is the remarriage of a widow named in the laws concerning marriage. The practice, fit only for cattle, is reprehended by the learned twice-born men. Amongst men it is mentioned while Vena had sovereign power; (but this king) of yore possessing the whole earth, and therefore (not on account of his piety) called the best of royal saints, gave rise to a confusion of castes, his intellect having been impaired through lust."

Thus Manu admits that the practice in question existed; he condemns it, however, as strongly as possible, in the case of the first three castes, allowing, though not recommending it, as might be inferred from his words—and has been inferred by the commentators—in the case of the fourth or servile caste. But even in regard to this caste he lays down the law that the authorized kinsmen should by no means procreate more than one son, though he states that lawgivers anterior to him thought the procreation of a second son was lawful. Both these stipulations must have been unknown to Vyâsa in the narrative to which we referred; for Vichitravîrya was a Kshattriya, and Vyâsa—himself a Brâhmana, though of a doubtful origin—procreated not only more than one child for the benefit of his relative, but, so far as his own belief went, three. And Pându, too, when lamenting his childlessness, says to Prithâ: "In distress men desire a son from their oldest brother-in-law." It is certainly curious that Manu, in illustrating the historical occurrence of this practice, should allude to a lustful King Vena, and pass over in silence the example of Vyâsa. But whilst

on the one hand it is intelligible that Manu could not associate the name of the holy compiler of the Vedas with a practice "fit only for cattle," it would seem incredible that Vyâsa could have been guilty of it had there existed in his time a code of law invested, like that of Manu, with undisputed authority, and strongly condemning it.

A comparison between the marriage law as mentioned by Manu, and alluded to in *some* passages of the Mahâbhârata, leads to an analogous inference. Regarding the manner in which a husband is chosen Manu says:—

"To an excellent and handsome suitor of the same let every man give his daughter in marriage according to law. . . . Three years let a damsel wait, though she be marriageable, but after that term let her choose for herself a husband of equal rank. If not being given in marriage she obtain a husband, neither she nor the husband whom she obtains commits any offence."

Hence Manu limits the right of a girl to choose herself a husband to the condition that her father did not give her away in marriage at the proper time. In those portions of the Mahâbhârata, however, to which we allude, a girl often chooses her husband before her father gives her away, and while she thus has a perfect freedom of choice, the right of the father is merely that of assent. This mode of a girl's choosing her husband was called the *Svayamvara*, or "self-choice." We see it observed in the marriage of Pându with Prithâ, of Yudhishthira with Devikâ, of Sahadeva with Vijayâ, of Sini with Devakî, Nala with Damayantî, &c.; and we have a full description of it when Draupadî chose Arjuna. This greater freedom of women is consonant with the position which, to judge from some Vedic hymns, they must have held in society during the Vedic time, but it is foreign to the period of

Manu. In the narrative of Draupadî's "self-choice" we are even distinctly told that this mode of electing a husband was a peculiar privilege of the Kshattriya caste, to which a Brâhmana had no claim. But no such privilege is mentioned in the code of Manu, who in regard to the subject of marriage gives the following rules;—

"Now learn compendiously the eight modes of marriage (for the acquisition) of wives by the four castes (some of which modes are productive of) good and some of evil in this world and the next, They are the modes called *Brâhma, Daiva, Ârsha, Prâjâpatya, Âsura, Gândharva, Râkshasa,* and the eighth and worst, the *Paisâcha.* . . . Let mankind know that the six first in direct order are valid in the case of a Brâhmana: the four last in that of a warrior: and the same (four) except the Râkshasa mode in the cases of a man of the third and fourth castes. The wise consider the four first forms as most approved in the case of a Brâhmana, and only the Râkshasa mode in that of a Kshattriya, and the Âsura in that of a man of the third and fourth castes. But among these, three of the five last, viz., the Prâjâpatya, Gândharva, and Râkshasa, are held legal, and two illegal; the Paisâcha and Âsura marriages must never be contracted by any caste. Whether separate or mixed, the before-mentioned Gândharva and Râkshasa modes are declared legal for a man of the military caste. The mode of marriage is called *Brâhma* (1) when, having voluntarily invited a man versed in the Vedas, and of good character, a daughter is given away to him, after clothing both of them, and honouring them with ornaments, &c. The mode called *Daiva* (2) is the giving away of a daughter, after having decked her with ornaments, to the priest officiating at a properly conducted sacrifice. When, after receiving from the bridegroom one pair of kine (a bull and a cow), or two pairs, for religious purposes a daughter is given away in due form, that mode

of marriage is called *Ârsha* (3), It is called *Prâjâpatya* (4) when a daughter is given away with due honour after having uttered this injunction: 'May both of you perform your duty.' When the bridegroom, having given as much wealth as he can afford to the damsel and her kinsmen, takes her according to his own pleasure, that mode is called Âsura (5). The reciprocal connexion of a damsel and her lover, from mutual desire, is called the *Gândharva* mode (6); it proceeds from sensual desire, and is intended for amorous embraces. The seizure of a maiden by force from her home, after slaying or wounding her kinsmen, and breaking into their houses, while she weeps and calls for assistance, is the mode called *Râkshasa* (7). When the lover secretly embraces the damsel while she sleeps or is intoxicated, or disordered in her mind, such a mode—the eighth—is called *Paisâcha* (8); it is the most wicked and the basest."

No "self-choice" mode, as we see, occurs in this detailed description by Manu of the eight marriage modes, six of which he declares legal. But Svayamvara is not only mentioned in the description of Draupadî's marriage, as a privilege of the Kshattriyas, it is asserted also by the patriarch Bhîshma to be the best of all modes of marriage for a man of his caste, besides a still better one, that of forcibly carrying off a bride. The occasion on which Bhîshma makes mention of the marriage notions of his time is that of his choosing in the last-mentioned fashion as intended wives for his brother Vichitravîrya, the beautiful daughters of a king of Benares; and since his words are remarkable, inasmuch as they afford the means of comparing these notions with those expressed in the code of Manu, we will quote the passage in which they occur. It runs as follows:—

"When Bhîshma, the best of combatants, had put the damsels on

his chariot, he said, with a voice like thunder, to the assembled kings: (1) Giving away a damsel to men of distinguished qualities, after having invited them, and after having decked her with ornaments, and given her as much property as possible, is one mode of marriage mentioned by the wise. (2) Some give a damsel away for a pair of kine. (3) Others again acquire her for a named amount of wealth; (4) some by force, and (5) others having made her consent; (6) some again approach a damsel when she is disordered in her mind; (7) others marry her of their own accord; (8) and some marry wives in doing honour to the Ârsha mode. This you should know is the eighth mode chosen by the wise. But men of the military caste exalt and practice the 'self-choice' mode, and those who declare the law call the choicest of all wives the wife who has been carried off by force."

It may be conceded—as Nîlakantha, the only commentator who appends any remarks to these words, suggests—that Bhîshma's first mode is Manu's Brâhma mode, his second that which Manu first calls Ârsha, his third Manu's Âsura mode, his fourth that which in Manu is the Râkshasa, his fifth the Gândharva, and his sixth the Paisâcha mode. But when the same commentator identifies Bhîshma's seventh mode with Manu's Prâjâpatya, and says that his eighth is Manu's Daiva mode, his interpretation is plainly arbitrary, as there is nothing in Manu's explanation of these two modes to warrant an inference of this kind. We must, on the contrary, conclude that Bhîshma alludes to two other modes unknown to Manu, just as he extols two special Kshattriya kinds of nuptials, one of which is not mentioned by Manu at all—the Svayamvara—whereas the other is merely declared by him to be a legal mode, but nothing else. It is interesting, moreover, to notice that in the long instruction which Bhîshma imparts to Yudhishthira when on his death-bed of arrows—in the thirteenth book

of the Mahâbhârata—he gives another account of the marriage law. There he does not enumerate *all* the modes of marriage ; but so far as it goes his account is in perfect harmony with the statement of the old law-giver, and to a certain extent delivered in the very words of Manu himself. But the thirteenth book, there is sufficient evidence to prove, does not belong to the oldest portions of the great epos ; it is a later addition to it, and was modelled on the received and standard law. A discrepancy of a similar character is that between the law of inheritance as stated in some portion of the great epos and the code of Manu, and later codes of law. In speaking of the twelve descriptions of sons which a man may have, Manu says:—

" Of the twelve sons of men whom Manu the son of Brahmâ has named six are kinsmen and heirs, six *not heirs, but kinsmen.* The son begotten by a man (in lawful wedlock), the son of his wife (by a kinsman authorised to procreate a son for her husband), one given to him (by his parents), one adopted, one of concealed birth, one abandoned (by his natural parents), are the six kinsmen and heirs. The son of a damsel (who is unmarried), the son of a pregnant bride, a son bought, a son by a twice-married woman (or by a woman betrothed to one man and given in marriage to another), one who offers himself up as a son, and a son by a woman of the servile caste—are the six *kinsmen, but not heirs.*"

Pându, however, gives to his wife Prithâ the following account of these different kinds of sons;—

" In the code of law six sons are mentioned who are kinsmen and heirs, and (after these) six sons who are *neither kinsmen, nor heirs*—the son begotten by a man himself, the son of his wife (by a kinsman authorised to procreate a child for her husband), the son bought (accord-

ing to one version ; according to another, the son begotten for money), the son by a twice-married woman (or by a woman betrothed to one and given in marriage to another), the son of a damsel (who is unmarried), and the son of an adulterous woman, the son given (by his parents), the son bartered away, the son adopted, one who offers himself up as a son, the son of a pregnant bride, the son of a relative, and the son by a woman of the servile caste."

Enough has been adduced to indicate that there are portions in the Mahâbhârata—and we may add that they occupy a considerable part of it—in which a state of Hindu society is pictured that is anterior to the code of Manu ; and an investigation of those portions would show that this society differs from the society mirrored by this ancient code not only in regard to positive laws, but also in customs and morality. Whether the account of that state of society, too, as we possess it in the actual Mahâbhârata, is anterior to Manu is another problem, and one perhaps more difficult to solve. Yet, after the observations made before, we would venture to say that such a solution is not impossible. Where the Brahmanical arrangers of the great epos endeavour to palliate or to explain away obnoxious facts or doctrines which they could not suppress, it is probable that their account of these facts or doctrines belongs to a later of the several recensions, which, as Professor Lassen has proved, the epos had to undergo. But where such facts are related, without any attempt at harmonizing them with the object the compilers had in view, there is a strong presumption that they have been preserved in the oldest recension of the epos, and that this recension was likewise anterior to the standard codes of law. Later recensions may have, and in some cases unquestionably have, obscured the antiquity of this oldest recension by mixing up with it legends and other matter foreign to it—such legends, for instance, as relate to Siva, whom, like the *god*, not

the hero, Krishna, we consider as an intruder into the oldest portions of the Mahâbhârata. But in many cases it is easy even now to distinguish these interpolations from the original story into which they were forced. We cannot agree, therefore, with Mr. Wheeler when he is inclined to assign, even to those oldest portions of the Mahâbhârata, a period at which Buddhism had already made its appearance in India; we on the contrary fully concur with Professor Lassen, who considers Buddhism posterior to them. That there are portions of the epos which are post-Buddhistic cannot be matter of doubt, but even these we see no reason to ascribe to a date subsequent to the rise of Christianity. Some years ago an opinion of this kind was volunteered on the ground that there was a similarity between some legends relating to Krishna, and some connected with the life of Christ. But apart from the circumstance that it would be begging the question to consider those Hindu legends as borrowed from the legends of the Bible; coincidences of this nature are so frequent in history that an attempt at basing on them inferences of a chronological bearing seems almost ludicrous. It is probably a similarity between certain scenes described in the poems of Homer and the Mahâbhârata which gave rise to the rumour, told by Dio Chrysostomus, that the Hindus had translated and sang the poetry of Homer; but it would be just as critical to base chronological conclusions on this rumour and on that similarity, as it would be to base them on the faint resemblance which the mythological history of Krishna bears to some Christian legends.

Before, however, Sanskrit philology has established with as much probability as its critical means will permit at least the relative chronological position of the immense material which constitutes the actual Mahâbhârata, it must remain hazardous to decide which portion of it has preserved intact the historical lore of Hindu antiquity, and which has not; but legends and myths, customs and laws, religious

doctrines and philosophical speculations—in short, the vast episodical vegetation which has overgrown the stem of the great epos—they likewise, and as much as the main story of the epos itself, are concerned in this critical labour; for they have, too, their problems and their history. We therefore sincerely wish that the learned works which called forth these cursory remarks may speed on this labour, and lead it to a satisfactory result.

ON THE DEFICIENCIES IN THE PRESENT ADMINISTRATION OF HINDU LAW.

The attention of the East India Association having lately been drawn by Mr. W. Tayler to some urgent wants in the administration of justice, in so far as Indian litigants in general are concerned, it may not be inexpedient to bring under your notice the difficulties which beset the course of justice in reference to a particular class of cases which it did not enter into the scope of Mr. Tayler's able paper to deal with, viz. of those cases which are governed by Hindu law.

This law, I need not explain, concerns two topics of litigation only —that of inheritance and that of adoption—topics intimately connected with Hindu religious belief, and therefore allowed to remain free from the touch of foreign legislation.

The Hindu law, it is likewise unnecessary for me to add, is laid down in the ancient and mediæval works of the Hindus, all of which are written in Sanskrit. It is contained in the code of Manu, in that of Yâjnavalkya, in the codes of numerous legislators, which are intermediate between, or posterior to, both these great authorities, and in a number of subsequent, but very important commentaries and digests, which have developed the ancient law, and ultimately, because latest in time, have become first in authority.* Amongst these, one of the most

* See 'Yâjnavalkya-Dharmasâstra,' I., 4, 5; H. T. Colebrooke's Preface to 'Two Treatises on the Hindu Law of Inheritance;' A. F. Stenzler, 'Zur Literatur der Indischen Gesetzbücher,' in A. Weber's 'Indische Studien,' vol. i., pp. 232 ff.; Standish Grove Grady, 'A Treatise on the Hindoo Law of Inheritance,' pp. lix.—lxxiv.

important in all matters relating to the law of inheritance is the *Mitâksharâ* of *Vijnânes'vara*, which, as Colebrooke says, is, with the exception of Bengal, "received in all the schools of Hindu law, from Benares to the southern extremity of the peninsula of India, as the chief groundwork of the doctrines which they follow, and as an authority from which they rarely dissent."* The Mitâksharâ was expanded in subsequent digests, and, in consequence, the Vivâdachintâmańi, the Ratnâkara, and Vivâdachandra, became the first legal authorities, on matters of inheritance, in Mithilâ (Tirhut); the Vîramitrodaya and the works of Kamalâkara became so at Benares; the Vyavahâramayûkha amongst the Mahrattas, and the Smŕitichandrikâ and Vyavahâra-Mâdhavîya at Madras.

In Bengal the paramount authority on the law of inheritance is Jîmûtavâhana's Dâyabhâga, which in several important respects differs from the ruling of the Mitâksharâ; and in agreement with it are Raghunandana's Dâyatattva, S'rîkrishna-Tarkâlankâra's Dâyakramasangraha, besides various other works, which it is not necessary here to enumerate.†

The best authorities on the law of adoption are the Dattakamîmânsâ, by Nanda Pańd'ita; the Dattakachandrikâ, by Devand'a Bhat't'a; and after them, the Dattakanirńaya, Dattakatilaka, Dattakadarpańa, Dattakakaumudî, Dattakadîdhiti, and Dattakasiddhântamanjarî. All these commentaries and digests derive their authority from, and profess to be based on, the codes of Manu and Yâjnavalkya and the other lawgivers already alluded to. They do not admit that there is any real difference between the laws laid down in the ancient works; and wherever any such differences seem to exist, they either endeavour to reconcile them by the interpretations they put on their texts, or explain them away by

* 'Two Treatises,' Pref., p. iv.

† Compare the works mentioned in the note of the preceding page.

the assumption of accidental omissions which they supply. And it is in consequence of such interpretations or additions that different conclusions have obtained in the Mitâksharâ- and the Bengal-schools, though both profess to derive their opinions from a correct and authoritative understanding of the same ancient texts.

That all these commentaries and digests, whenever it suits their line of argument, occasionally also refer to other non-legal works of Sanskrit literature, such as the vedic Gr'ihyasûtras, the Mahâbhârata, Râmâyańa, the Purâńas, and even the grammar of Pâńini, need not surprise us, for their object is to convey the impression that a harmonious spirit pervades the whole antiquity of India, and that their ruling, therefore, is in accordance with all that is sacred to the Hindu mind.

Now, from the facts I have been able to gather, it would appear that, with scarcely any exception, the English judges who are entrusted with the administration of the Hindu law of inheritance and adoption, are not acquainted with the Sanskrit language, and are unable therefore to found their decisions on a direct and immediate knowledge and examination of the original law sources just mentioned.* They must resort, therefore, to second-hand information which they derive from translations, and the assistance afforded them by the pleadings of counsel and otherwise. But as I am probably not very wrong in assuming that for the most part the counsel, too, are indebted for their knowledge of the Hindu law, not to the original texts, but to translations of them, these translations are the real basis on which the administration of the Hindu law at present rests, and it will, therefore, be necessary to give a brief account of them.

* 'The Law of Partition and Succession, from the Vyavahâranirn'aya,' by A. C. Burnell. Mangalore, 1872. Preface, p. x. 'Dâyadas'as'lokî,' by the same. Ibid., 1875, p. 5.

Of the code of Manu there exists the well-known complete translation of Sir W. Jones, first published in 1794, then in 1796, and reprinted by Haughton in 1825. It was translated into German by Hüttner in 1797. A French translation of the original by Loiseleur Deslongchamps, mainly agreeing with that of his predecessor, appeared in 1133.* A complete translation in German of the code of Yâjnavalkya was published by Professor Stenzler in 1849; and some portions of the same code, translated into English by Dr. Röer and Mr. Montriou, appeared in 1859.

The Mitâksharâ of Vijnânes'vara is a running commentary on each verse of Yâjnavalkya's Institutes. The latter consists of three parts. The first treats of *âchâra*, or established rules of conduct, comprising such subjects as education and marriage, funeral rites, &c. The second

* About thirty years ago, I believe, there appeared at Calcutta a few parts of a new edition and translation of Manu, which seem to have remained almost unknown in Europe. The quarto volume in question, when opened, contains on the left side in one column the text of Manu in Devanâgarî, and in Bengal characters; and in another, a Bengali translation of the corresponding verses, a few notes in Bengali being generally added to the page; on the right side it contains in one column Sir W. Jones's translation, and parallel to it, in another column, a new English translation, which may be looked upon as a running criticism on the former. For though it repeats as much as it approves of Sir W. Jones's translation, in the very words of the latter, this is apparently done in order to make its divergence from it still more prominent; and this divergence is not inconsiderable, and very often marks a decided improvement on the rendering of Sir W. Jones. Foot-notes in English, moreover, are frequently added to justify the discrepancies. Unfortunately—for there is no doubt that the author of the new translation was a very competent scholar—in the two copies of it known to me, the text breaks off at verse 40, and the translation at verse 33, of Book 3, while these two copies do not contain the name of the author or a date; and since all my endeavours to learn more about the progress of the work have been unsuccessful, I apprehend that no more of it, than the portions I have seen, has appeared in print. The name of the editor and translator, as I learn from a friend, is Tarachund Chuckerbutt.

part treats of *vyavahâra*, or the business of life, including amongst many other topics judicature and inheritance; the third part treats of *prâyas'chitta*, and comprises penance, purification, transmigration, and kindred subjects. Of the Vyavahâra part of the Mitâksharâ eight chapters translated by W. H. Macnaghten first appeared in 1829; and that portion of it which strictly relates to inheritance, about the fourteenth part of the whole work, exists in the well-known translation by Colebrooke, first published in 1810, and then edited in his Hindu law books by Mr. Whitley Stokes in 1865. Of the Vyavahâramayûkha, Harry Borradaile published a translation in 1827, which likewise reappeared in Mr. Stokes's Hindu law books in 1865.

The Vivâdachintâmani, translated into English by Prosonno Coomar Tagore, was published in 1863; the Vyavahâra-Mâdhavîya, by Mr. A. C. Burnell, in 1868, and—through the medium of Tamul sources, as I am informed—the Smritichandrikâ, by Mr. T. Kristnasawmy Iyer, in 1867. Of Jîmûtavâhana's Dâyabhâga we possess the translation of Colebrooke, first published in 1810, and in his law books by Mr. Stokes in 1865; and of the Dâyakramasangraha—also edited in the same collection by the same distinguished scholar—the translation of Wynch, first published in 1818.

Lastly, the Dattakamîmânsâ and Dattakachandrikâ exist in a translation by Sutherland, first published in 1821, then in 1825, and also embodied in Mr. Stokes's Hindu law books.

Besides these few translations, nothing whatever worth mentioning, out of the large bulk of Hindu law literature, is accessible to the English judge, if unacquainted with Sanskrit, except a few disconnected verses of the ancient lawgivers, put together, without any reference to the context in which they stand, in the Digest of Hindu law prepared by Jagannâtha under the directions of Sir W. Jones.*

* Colebrooke's opinion of this Digest is contained in the following passage

The question, then, which I have to raise is this: Do these translations—a mere fraction, I need not say, of the large mass of Hindu law literature—suffice both in quality and quantity for ensuring to litigants a proper and satisfactory administration of the Hindu law of inheritance and adoption?

Before giving my opinion on this point, I will place myself in the position of a judge who has no means of examining for himself the original text of a statute, and I should then have to assume that the question asked must be answered by him in the affirmative. For on what grounds could he decide that the translations enumerated above were insufficient in quantity, and how could he undertake to say that any objection mooted against their reliability was valid or not? It would be a dangerous and, I hold, an arbitrary proceeding on his part were he to overrule, for instance, the translation of a passage by Tagore or Burnell, merely because the translation of the same passage by Colebrooke did not agree with it, and because the authority of Colebrooke stands higher than that of the scholars differing from him. For however high the authority of anyone, a doubt of this kind cannot be finally settled by it; and a mere consideration of the immense progress made

from his preface to the 'Two Treatises,' &c., p. ii.:—"In the preface to the translation of the Digest, I hinted an opinion unfavourable to the arrangement of it, as it has been executed by the native compiler. I have been confirmed in that opinion of the compilation, since its publication; and indeed the author's method of discussing together the discordant opinions maintained by the lawyers of the several schools, without distinguishing in an intelligible manner which of them is the received doctrine of each school, but on the contrary leaving it uncertain whether any of the opinions stated by him do actually prevail, or which doctrine must now be considered to be in force and which obsolete, renders his work of little utility to persons conversant with the law, and of still less service to those who are not versed in *Indian* jurisprudence; especially to the *English* reader, for whose use, through the medium of translation, the work was particularly intended."

by Sanskrit studies since the time when the great Colebrooke wrote, of the large quantity of new materials that have since come to light, of all the advantages in short, which, in consequence of the very labours of Colebrooke, later workers in the same field must have over him, would naturally make a judge hesitate in disposing of such doubts simply on the ground of tradition and authority.

Yet instances of such conflicting translations are by no means rare; and where therefore for his final opinion the judge would have to rely on third parties, his position would at any rate not be safe.

To illustrate this uncertainty I will choose at random a few examples as they occur to me.

The Mitâksharâ and the digests, as I have already observed, constantly support their statements by quotations from Manu, Yâjnavalkya, and the other lawgivers ; but as every disputed case has not been foreseen by them, these very quotations sometimes become the principal basis on which the judgment in a particular case has to rest.

In dealing with the rights of brothers, a verse of Yâjnavalkya is quoted by the Dâyabhâga of Jîmûtavâhana, which Colebrooke translates as follows :—

"A half-brother, being again associated, may take the succession; not a *half-brother*,* though not re-united: but one united [by blood, *though not by coparcenary*] may obtain the property ; and not [*exclusively*] the son of a different mother."†

In the Vivâdachintâmaṅi, Tagore translates this verse thus :—

"Re-united step-brothers, but not *brothers* who live separated, shall take each other's property. A uterine brother *even when he is separated*, shall have the property. But a *separated* step-brother cannot get it."‡

* The *italics* in this and the following quotations are intended to facilitate a comparison of the discrepancies.

† XI., 5, 13. ‡ P. 306.

Again, in the Vyavahâramayûkha we find Borradaile translating this verse:—

"One of a different womb, being again associated, may take the succession; not one of a different womb, if not re-united: but [a whole brother *if*] *re-united*, obtains the property; and not [*exclusively*] the son of a different mother."*

Hence, according to Colebrooke, a brother united by blood; according to Tagore, a uterine brother, *even when he is separated*, may obtain the property; while according to Borradaile a whole brother may obtain it, but only on the condition of being *re-united*. Again, Colebrooke and Borradaile say that the son of a different mother cannot get the succession *exclusively*, while Tagore says, that a step-brother cannot get it, if *separated*.

Or, under the heading of effects not liable to partition, the Mitâksharâ cites a verse from Nârada, which Colebrooke translates:—

"He who maintains the family of a brother studying science, shall take, be he ever so ignorant, a share of the wealth gained by science."†

In the Vyavahâra-Mâdhavîya, Mr. Burnell renders the same verse:—

"A member of a family though he be ignorant, who supports his brother while learning science, shall get a share of the wealth acquired by that brother by learning."‡

And Tagore, in the Vivâdachintâmaṅi:—

"Wealth, acquired by a learned man, whose family was supported, *during his absence from home* to acquire learning, by a brother, shall be shared with the latter, even if he be ignorant."§

Hence, according to Tagore's version a brother acquires this right only when he supports his brother's family during his absence from

* IV., 9, 10. † I., 4, 8. ‡ P. 49. § P. 253.

home—a restriction not contained in Colebrooke's and Burnell's translation of the same passage.*

Again, when treating of the succession to a woman's peculiar property, Jîmûtavâhana's Dâyabhâga quotes a verse of Devala, which according to Colebrooke says:—

"Her subsistence, her ornaments, her perquisites, and *her gains*, are the separate property of a woman. She herself exclusively enjoys it; and her husband has no right to use it, unless in distress."†

But in the Vivâdachintâmańi, Tagore renders the same verse thus:—

"Food and vesture, ornaments, perquisites, and *wealth received by a woman from a kinsman*, are her own property;" &c.‡

Hence in Colebrooke's translation the *strîdhana* applies to all the gains of a woman; while in that of Tagore—and he italicizes the words "from a kinsman"—it applies solely to the wealth which a woman receives *from a kinsman*.

The word perquisite (sometimes also called "fee") in the foregoing quotations is the Sanskrit *s'ulka,* and as an item of *strîdhana* it is defined in Jîmûtavâhana's Dâyabhâga by a reference to Kâtyâyana, which Colebrooke translates as follows:—

"Whatever has been received, as a price, of workmen on houses, furniture, and carriages, milking vessels and ornaments, is denominated a fee" (S'ulka).§

In the Vyavahâra-Mâdhavîya Mr. Burnell renders this verse as follows:—

"What is received as the price of utensils for the house, or cattle, or milch cows, for personal ornaments or for work, that is called *Sulka*."‖

* Jolly's translation of 'Nârada's Institutes," xiii., 10. Mayr, 'Das Indische Erbrecht,' p. 26. Burnell, 'Vyavahâranirn'aya,' p. 29.

† IV., 1. 15. ‡ P. 263 § IV., 3, 19. ‖ P. 41.

And Tagore, in the Vivâdachintâmańi:—

"The small sums which are received by a woman as the price or rewards of household duties, using household utensils, tending beasts of burden, looking after milch cattle, taking care of ornaments of dress, or superintending servants, are called her perquisites."*

The claims of a woman on the ground of S'ulka would therefore be greatly different according to the rendering of Colebrooke, Burnell, or Tagore, of the same authoritative passage.†

An outcast, it is well known, is subject to legal disabilities; he is not allowed to testify, and he is excluded from inheritance. Now Sir W. Jones, and after him Tagore,‡ render the verse of Manu, IX., 202, in the following way:—

"But it is just that the heir who knows his duty should give all of them [viz. relatives who are excluded from inheritance] food and raiment for life without stint, according to the best of his power: he who gives them nothing *sinks assuredly to a region of punishment.*"

But in the *Mitâksharâ*,§ where this passage from Manu is quoted, Colebrooke renders it:—

"But it is fit, that a wise man should give all of them food and raiment without stint to the best of his power: for he, who gives it not, shall be deemed *an outcast.*"

According to Sir W. Jones and Tagore, such a dereliction of duty would therefore entail a spiritual consequence only, but according to Colebrooke serious legal penalties too.||

Without multiplying instances like these, I may now ask how could a judge, without a knowledge of Sanskrit, decide which of these scholars

* P. 258.

† Jolly, 'Die rechtliche Stellung der Frauen bei den alten Indern,' p. 23 ff. Mayr, l.l., p. 167. Burnell, l.l., p. 45 ff.

‡ 'Vivâdach.' p. 243. § II., 10, 5. || Burnell, l.l., p. 13.

is right, or whether their difference of translation is based on a different reading of the same text, and if so, which of these different readings has a claim to greater authority than the rest? And if he cannot decide this question, what is to become of justice in all those cases that are governed by the law contained in these conflicting versions?

But as a Hindu has clearly a right to have justice done to him according to what are *his* real authorities, it is impossible to forego the question whether the present English translation of the law books can be implicitly relied upon as an equivalent for the originals.

On the whole, I have no doubt they may; and of all translations from Sanskrit into a European language I know of none to which, in my opinion, greater admiration is due than to the translation of Jîmûtavâhana's and Vijnânes'vara's law of inheritance by Colebrooke. So great, indeed, was the conscientiousness of that scholar, so thorough his understanding of the Hindu mind, and so vast and accurate his Sanskrit learning, that there is always the strongest reason for hesitation whenever one might feel disposed to question a rendering of his. And as Colebrooke's authority is still paramount in all law courts which have to deal with Hindu law, the aid afforded by his works to English judges cannot be too highly valued.

But, in the first place, the same high opinion cannot be entertained of all the translations already mentioned, for, with the exception of the version of the Vyavahâra-Mâdhavîya by Mr. Burnell, most of them are often too free and vague to be thoroughly reliable; and even the translation of the Vivâdachintâmańi by the late Prosonno C. Tagore, is often more paraphrastic than is compatible with an accurate rendering of the text.

And in the second place, it should also be remembered that, apart from Burnell's, Tagore's, and Kristnasawmy's translations which appeared a few years ago, and those of Loiseleur Deslongchamps, Stenzler,

and Röer, which may likewise be looked upon as relating to our own period, the remaining important works date from the end of the last and the earlier part of the present century, when there was not a single critical edition of any of their originals. Hence, with the MS. materials which have since come to light, with the numerous good editions of law texts to which it is now easy to refer,—I may here only name the admirable edition, by Bharatachandras'iromańi, of Jîmûtavâhana's Dâyabhâga, with seven commentaries, published under the patronage of P. C. Tagore, the various editions of Yâjnavalkya, with the whole Mitâksharâ, published at Calcutta, Benares, and Bombay, and several editions of Manu, with the commentary of Kullûkabhat́t́a, —in a word, with the immense progress which Sanskrit studies have made for the last thirty years, both in India and Europe, it would be much more surprising if these translations were still found to stand the test of modern scholarship, than if they were found to fail.

And from this point of view alone must we judge of imperfections which occur, not only in Borradaile, Wynch, and Sutherland, but also in Sir W. Jones's translation of Manu, and even in Colebrooke's translations of the two treatises of Vijnânes'vara and Jîmûtavâhana. Yet that such imperfections exist, whatever the cause may be, is undeniable; and as even the accomplished work of Colebrooke is not entirely exempt from them, it may easily be inferred that they call for the attention of those who are answerable for the administration of the Hindu law.

To illustrate the nature of the imperfections of which I here speak, and which have a material bearing on the law of succession, I will choose some instances from Colebrooke's 'Two Treatises.'

In Jîmûtavâhana,* the right to the female line of succession is laid down in an important text from Vr'ihaspati. According to Colebrooke this text runs thus :—

* IV., 3, 31.

"The mother's sister, *the maternal uncle*, the father's sister, the mother-in-law, and the wife of an elder brother, are pronounced similar to mothers. If they leave no issue of their bodies, nor son [of a rival wife], nor daughter's son, nor son of those persons, the sister's son and the rest shall take their property."

That in a series of female relatives the "*maternal uncle*" should occur, and be declared to be similar to a mother, would in itself be improbable; nor is he really mentioned there; and the mistake seems to have been caused by an omission in the MS. used by Colebrooke; for according to the correct text the passage reads:—

"The mother's sister, *the wife of a maternal uncle, the paternal uncle's wife,* the father's sister, the mother-in-law, and the wife of an elder brother are pronounced similar to mothers. If they leave no issue of their body, nor son, nor daughter's son, nor son of those persons, the sister's son and the rest shall take their property."*

Hence the maternal uncle cannot claim on the ground of this passage, but in his stead the wife of a maternal uncle and the paternal uncle's wife can so claim.†

In the same chapter, where the son's prior right to inheritance is mentioned,‡ a quotation from Vr'iddha-S'âtâtapa is made at the same time to show in what order the succession of other persons is regulated in accordance with the benefits which, through the S'râddha rites, they may confer on the soul of the deceased. Colebrooke renders the passage as follows:—

"The son's preferable right too appears to rest on his presenting the greatest number of beneficial oblations, and on his rescuing his parent

* Calc. 8vo. ed., 1829 (p. 154); Bharatach.'s ed. (p. 172): mâtuh' svasâ mâtulâni, pitr'ivyastrî pitr'isvasâ, s'vas'rûh' pûrvajapatnî cha mâtr'itulyâh' prakîrtitâh'; yad âsâm auraso na syât suto dauhitra eva vâ, tatsuto vâ dhanam' tâsâm' svasrîyâdyâh' samâpnuyuh'.

† Burnell, l.l., p. 51. ‡ IV., 3, 36.

from hell. And a passage of Vr'iddha-S'âtâtapa expressly provides for the funeral oblations of *these women:* 'For the wife of a maternal uncle or of a sister's son, of a father-in-law and of a spiritual-parent, of a friend and of a maternal grandfather, as well as for the sister of the mother or of the father, the oblation of food at obsequies must be performed. Such is the settled rule among those who are conversant with the Vedas.'"

The drift of the quotation from Vr'iddha-S'âtâtapa as it stands would not be intelligible, for Jîmûtavâhana alleges his words, not in order to state *for* whom the S'râddha should be performed, but *by whom* the benefits are conferred, and thus the title to inheritance in succession is acquired. But according to the words of the correct text, and the interpretation of them in the Dâyanirńaya, the passage from Vr'iddha-S'âtâtapa would have to be rendered thus:—

" . . . . And a passage of Vr'iddha-S'âtâtapa expressly provides for the funeral oblations of the following persons (*masc.*); the maternal uncle (performs the S'râddha) for a sister's son, and a sister's son for his maternal uncle, (a son-in-law) for a father-in-law; a (pupil) for a spiritual teacher, (a friend) for a friend, and (a daughter's son) for a maternal grandfather. And also for the wives of these persons, and the sister of a mother and father, the oblation of food at obsequies must be performed. Such, &c."*

* The original passage, according to the text published in Calc. 1829 (p. 157), and Bharatach.'s edition (p. 175), is as follows:—Mâtulo bhâgineyasya svasrîyo mâtulasya cha, s'vas'urasya guros' chaiva sakhyur mâtâmahasya cha, eteshâm' chaiva bhâryâbhyah' svasur mâtuh' pitus tathâ, s'râddhadânam' tu kartavyam iti vedavidâm' sthitir iti Vr'iddha-S'âtâtapa-vachanât. Amîshâm pin'd'adatva-pratipâdanâd ayam pin'd'adânavis'eshâd adhikârakramah'.

In the *Dâyakaumudî*, where this passage from S'âtâtapa is quoted (ed. Calc., p. 155), the following comment from the *Dâyan'irnaya* is appended to it: Mâtulo bhâgineyasya pin'd'adah'; evam' svasrîyo mâtulasya pin'd'adah'; s'vas'urasya

The importance of this passage had a recent illustration in the case of Grihadi Lall Roy *v.* the Government of Bengal. Gridhari was the maternal uncle of the father of a deceased Zemindar, whose inheritance he claimed, no other heirs claiming; but as the Bengal Government maintained that there was no law-text under which a maternal uncle could succeed to the property of a sister's son, it held that this was a case of escheat, and the High Court at Calcutta actually delivered a judgment in favour of the Crown. Now, since it has never been denied that a clear duty to perform the S'râddha implies a right to succeed, there can be no doubt that the judgment of the High Court must have been different, had it been able to avail itself of the correct translation of the passage quoted, proving as that does, the maternal uncle's duty to perform the S'râddha for a sister's son.

In Jîmûtavâhana,* according to Colebrooke, a grandmother and great grandmother would seem to have no right to succeed, inasmuch as they take no part in the Srâddha. It is true that the passage alluded to would stand in direct contradiction with others in the same work, where the grandmother's and great-grandmother's right is distinctly admitted, but the fact is that no such contradiction results from the original text. Colebrooke's words are:—

"Nor can it be pretended that the stepmother, grandmother and great-grandmother take their places at the funeral repast, in consequence of [ancestors being deified] with their wives."

Whereas the correct original text would in the translation run:—

"Nor can it be pretended that a stepmother, a stepmother of a father, and a stepmother of a paternal grandfather, take their places at

jâmâtâ pin'd'adah'; guroh' pin'd'adâtâ s'ishyah'; mâtâmahasya pin'd'adâtâ dauhitrah. Eteshâm mâtulâdînâm bhâryâbhyah' strîbhyah s'râddhadânam' kartavyam iti vedârthopanibandhr'în'âm' nisht'hâ; iti Dâyan'irn'ayah'.

* XI., 6, 3.

the funeral repast, in consequence of [ancestors being deified] with their wives."*

In the translation of the Mitâksharâ†—for I will also add an instance or two from this treatise—a curious mistake has been caused by Colebrooke's adopting part of the translation by Sir W. Jones of a passage of Manu, quoted by Vijnânes'vara in support of his rule regarding effects not liable to partition.

"If the horses or the like," Vijnânes'vara says, "be numerous, they must be distributed among coheirs who live by the sale of them. If they cannot be divided, the number being unequal, they belong to the eldest brother, as ordained by Manu." And now follows the quotation from the latter,‡ which Colebrooke has rendered thus:—

"Let them never divide a single goat or sheep, or a single beast with uncloven hoofs: a single goat or sheep belongs to the first-born."

How, on the ground of such a text from Manu, the Mitâksharâ could forbid the division of an unequal number of cattle, would be unintelligible. But what Manu really says is:—

"If goats and sheep, together with beasts that have uncloven feet, are of an unequal number, let no division be made of them; but let such an unequal number of goats and sheep (*v.l.* let such goats and sheep, with beasts that have uncloven feet), go to the first-born."

The error arose from the translators mistaking the import of the singular number which is required by Sanskrit compounds to express collectiveness, and which in the case of the Dvandva compound *ajâvikam*

* Calc. ed. 1829 (p. 323), Bharatach.'s ed. (p. 332): Na cha sapatnîkatvena sapatnîmâtuh' sapatnîpitâmahyâh' sapatnîprapitâmahyâs' cha s'râddhe 'nupraves'ah'. Compare the analogous passage in the *Vîramitrodaya*, f. 208, *b*, ll. 1 ff.

In this instance a printer's mistake perhaps caused the inaccuracy in Colebrooke's rendering; for if we read in it "the step- mother, -grand- mother." &c., the chief discrepany would be removed.

† I., 4, 18. ‡ IX., 119. [Mayr, l.1 l., p. 34.]

"goats and sheep" is also interpreted in this sense by the commentator Kullûkabhaťťa, with a reference to the grammar of Pâńini.*

In the chapter which treats of the right of a widow to inherit the estate of one who leaves no male issue, the Mitâksharâ† says :—

"In the first place, the wife shares the estate. 'Wife' (patnî) signifies a woman espoused in lawful wedlock; conformably with the etymology of the term as implying a connexion with religious rites. *The singular number 'wife' (in the text of Yâjnavalkya) signifies the kind; hence if there are several wives belonging to the same or different castes, they divide the property according to the shares (prescribed to them), and take it.*"

The italicized words are entirely omitted in Colebrooke's translation, and as there is no other passage in the Mitâksharâ which relates to the emergency of several wives surviving a man who leaves no male issue, it is needless to point out how important they are in a disputed case of this nature. The omission, I may add, has already been noticed by Mr. Stokes in a note to page 53 of his 'Hindu Law Books,' where he comments on a passage of Borradaile's Vyavahâramayûkha.

I need not enlarge any further on mistakes of this nature, which, as I have already observed, may chiefly have arisen from the imperfect condition of MSS. which were used for the translations; but it is clear that they may become a serious impediment to rightful claims, and obstruct the course of justice.

Apart however from the question, whether a judge could entirely rely on these translations of Sanskrit law texts, it remains to be seen

* *Mit.* (I., 4, 18): Ajâvikam′ saikas′apham′ na jâtu vishamam bhajet, ajâvikam′ tu vishamam (*a. l.* saikas′apham′) jyesht′hasyaiva vidhîyate, iti Manu-smaran′ât.—*Kullûkabhat′t′a* to *Manu*, IX., 119: ajâvikam iti pas′udvandvâd vibhâshayaika-vadbhâvah′ (comp. Pân. II., 4, 11).

† II., 1, 5.

whether, even in their most perfect condition, the existing translations of the Hindu law books could be held to suffice for the settlement of the numerous cases that arise from disputes in matters of Hindu inheritance and adoption.

No one, I think, acquainted with the works enumerated at the commencement of this paper, and with works of Sanskrit literature quoted by them, would affirm that they *do* suffice. He would, on the contrary, have to own that many law-books, as yet untranslated are sometimes a material aid, and sometimes even indispensable, for a correct understanding of the Mitâksharâ and the digest of Jîmûtavâhana.

The *Vîramitrodaya*, for instance, is to a large extent a full commentary on the Mitâksharâ, which it copiously quotes; and the same may be said of the *Smr'itichandrikâ*, of which a few years ago not a line had appeared in print, and of which even now a trustworthy translation cannot be said to exist. Again, the seven commentaries on Jîmûtavâhana's Dâyabhâga, Raghunandana's Smr'ititattva, the treatises of Kamalâkara, the Dâyakaumudî, and kindred works, are in numerous instances the best, if not the only, means for arriving at the precise meaning of its text. And so long as all these works remain untranslated, justice to the Hindus in matters of inheritance must remain uncertain, because it would often have to depend on the reasoning of the European mind, which failing to appreciate the historical facts and the religious ground on which Hindu reasoning proceeds, must necessarily often become fallacious. In a recent case tried in the High Court at Fort William, the Chief Justice gave the advice, not to introduce English notions into cases governed by Hindu law. "The Hindu law of inheritance," he very justly observed, "is based upon the Hindu religion, and we must be cautious that in administering Hindu law we do not, by acting upon our notions derived from English law, inadvertently wound or offend the religious feelings of those who may be affected by our deci-

sions; or lay down principles at variance with the religions of those whose law we are administering."—(In the High Court of Judicature at Fort William. Ordinary original civil jurisdiction, 1st September, 1869, Gannendro Mohun Tagore *v.* Opendro Mohun Tagore, &c., p. 23.)

Yet how much even judges of the highest standing are liable to err, if, for a knowledge of the positive Hindu law, they substitute that which from an English point of view may appear to be the most logical and faultless reasoning, will be seen by the instance of a Privy Council judgment which, if relied upon as a precedent, would materially alter the whole Hindu law of inheritance in one of its vital points.

The judgment I am here alluding to is that delivered on the 30th of November, 1863, by the Judicial Committee of the Privy Council upon the appeal of Kattama Nauchear *v.* the Râjâ of Sivaganga, from the Sudder Devanny Adawlut at Madras.

The object of the litigation was the Zemindary of Sivaganga, situated in the Madras Presidency. Its last owner, who was in undisputed possession of it, had died in 1829, leaving no male issue, but several wives by whom he had daughters; and the daughter of one of those wives was the appellant in the case; for the Sudder Court at Madras had decided against her claims, and pronounced in favour of the respondent, a nephew of the deceased, who at the time of the appeal was in possession of the Zemindary.

The issues of the case, as stated in the judgment of the Judicial Committee of the Privy Council, were these:—

1. Were Gaurivallabha (the deceased Râjâ) and his brother (for the grandson of the latter was the respondent, the Râjâ in possession) undivided in estate, or had a partition taken place between them?

2. If they were undivided, was the Zemindary the self-acquired and separate property of Gaurivallabha (the deceased Râjâ)? And if so—

3. What is the course of succession according to the Hindu law of

the south of India of such an acquisition, where the family is in other respects an undivided family?

The first of these questions, the judgment of the Judicial Committee of the Privy Council answered in the sense that the deceased Râjâ and his brother were *undivided* in estate; and this being a question of fact, we have simply to accept their Lordships' finding.

In regard to the second question, the judgment held that the Zemindary was not the ancestral, but the self-acquired and separate property of the late Râjâ; and this, too, being a question of fact, no remark has to be added to it.

Concerning the third, however, which is a question of law, the judgment went on to say, that according to the law in the south of India, as affecting members of an undivided family, the Zemindary would have passed to the nephew had it been ancestral property, but being self-acquired property, the daughter of one of the widows—the appellant in the case—was entitled to it.

Now, in the first place, I must here observe that this judgment is exclusively based on what their Lordships consider to be the law of the Mitâksharâ. That the Mitâksharâ is *one* of the law authorities in the south of India is unquestionable; but it is likewise an undisputed fact that it is not the *primary* authority in that part of India. As before stated, the Mitâksharâ, which is merely a running commentary on the text of Yâjnavalkya, is incomplete in many respects; and amongst the later works which enlarged on it and supplied its defects, the digests called *Smr'itichandrikâ* and *Vyavahâra Mâdhavîya* became the chief authorities in the south. At the time when the Sivaganga case was pending, Mr. Burnell's translation of the Mâdhavîya did not exist, nor even the imperfect version of the Smr'itichandrikâ by Mr. Kristnasawmy Iyer. These works were then accessible only in Sanskrit MSS. Hence not so much as an allusion to them occurs in the judgment of the

Judicial Committee of the Privy Council; and while it is not denied that the respondent had a right to have his claims dealt with according to the recognised *primary* law of his country, we here meet with the anomalous circumstance that they were decided upon according to what in the south of India is only considered as a secondary source of law.

And that this distinction is not merely a fortuitous one is proved by the case itself. For there is no text in the Mitâksharâ which clearly provides for it, whereas there are passages in the *Smr'itichandrikâ* and the *Mâdhavîya* which, I have no doubt, would have proved to their Lordships' minds that the second question they had raised was irrelevant to the case, and that their final decision was even contrary to the very spirit of the law of the Mitâksharâ.

But as they were not acquainted with the two Digests which, while in perfect accordance with the Mitâksharâ, elucidate its obscurities, their Lordships supplied the apparent defect of the Mitâksharâ with arguments which, from a European point of reasoning, might bear out the conclusion at which they arrived, but from a Hindu point of view do not.

I have already mentioned that the family of the appellant and the respondent were admittedly undivided in estate. Yet in a family of *this* description the judgment of the Judicial Committee raised the question as to what was in it ancestral, and what was self-acquired, property. Such a question, however, cannot judicially occur in an *undivided* family, so long as it remains undivided, which was here the case. The translated text of the Mitâksharâ itself is silent on the law of succession in reference to an undivided family, for the text of Yâjnavalkya, which this commentary follows verse by verse, does not deal with it; and in the first section of its second chapter, which treats of the right of widows to inherit in default of male issue, and on which the judgment in this case is exclusively based, nothing is stated affect-

ing the rights of any member of an undivided family. On the other hand, the *Vyavahâra-Mâdhavîya*, and especially the *Smr'itichandrikâ*, very distinctly regulate the succession rights in an undivided family: it results from them that only a male member of such a family can be heir, and that *so long as the family remains undivided*, the whole of the property, whether ancestral or self-acquired, is vested in him.* The reasons of such a law are likewise clear. In an undivided family the principal religious duties are undivided, and the benefits, therefore, to be bestowed on the soul of the deceased ancestor—benefits on which the right of succession rests—can be conferred only by one single member of the family, its actual head.†

Not having before them this distinct law, which is quite in harmony with the law of Manu and all other legislators, and being left in doubt by a section of the Mitâksharâ, which having nothing whatever to do with the case in question could of course not enlighten them, the Lords of the Judicial Committee laid down a perfectly novel proposition which, if adopted, would alter the basis of the whole Hindu law.

"There are two principles," the judgment says,‡ "on which the rule of succession, according to the Hindu law, appears to depend: the first is that which determines the right to offer the funeral oblation, and the degree in which the person making the offering is supposed to minister to the spiritual benefit of the deceased; the other is an assumed right of survivorship."

But the fact is, that there is only *one* principle, that stated by the Report in the first proposition, and that the second does not exist at all. Of the first, Sir W. Jones had already said that it contains the key to the *whole* Hindu law of inheritance; and even the single text which

* The question, therefore, what is ancestral and what is self-acquired property can judicially only occur at the time when division takes place.

† See Appendix. ‡ Page 18.

the judgment adduces in support of its theory of a right of survivorship, had it been quoted in full, and with the remarks attached to it by the Smr′itichandrikâ, would have shown that no such right can be inferred from it.*

* After the words above quoted ("there are two principles . . . . right of survivorship") the Report continues:—"Most of the authorities rest the uncontested right of widows to inherit the estates of their husbands, dying separated from their kindred, on the first of these principles (1 Strange, 135). But some ancient authorities also invoke the other principle (viz. that of survivorship). Vr′ihaspati (3 Dig. 458, tit. cccxcix; see also Sir W. Jones' paper cited 2 Strange, 250) says:—'Of him whose wife is not deceased half the body survives; how should another take the property, while half the body of the owner lives?'" The text here quoted by the judgment reads, however, in full, as quoted by the Smr′itichandrikâ, thus:—"In Scripture, in the traditional code, and in popular practice, a wife (*patnî*) is declared by the wise to be half the body (of her husband), *equally sharing the fruit of* (*his*) *pure and impure acts* (*i.e.* of virtue and vice). Of him whose wife is not deceased, half the body lives; how then should another take his property while half the body of the owner lives? Although Sakulyas (distant kinsmen), although his father, his mother, and uterine brothers be present, the wife of him who died, leaving no male issue, shall take his share." (The same passage also occurs in Jîmûtavâhana's Dâyabhâga, XI., 1, 2, and in Sir W. Jones' paper, 2 Strange, 250, mentioned by the Report). The Smr′itichandrikâ (Calc. ed., p. 58) *introduces* this passage with the following words:—"Accordingly, after having pronounced that compared to other (relatives) a wife has a nearer claim *on account of the circumstance that she has the property of conferring visible and spiritual benefits* (on the deceased), Vr′ihaspati has shown that the wife has the share of her husband's property, if there are no secondary (or adopted) sons, though father and other heirs as far downwards as the Sakulyas may be alive." Again, after having explained the import of the word "wife (*patnî*)" in the passage quoted, the same law authority says:—"Accordingly, the term *patnî* gives us to understand that *her fitness to perform such religious acts, as the rites in honour of the manes, is the reason that she is entitled to take the share of her husband.*" It is clear, therefore, that though "acting upon our notions derived from English law," we might feel induced to infer from the word "lives," in the alleged passage, a right of survivorship, the Hindu mind, and especially the very law authority on which the judgment should have been based, was far from following such a course of reasoning. It looked, on the contrary, upon this passage as confirming the *spiritual* principle, and this principle alone.

The judgment further asks :—" If the first of these principles (the spiritual principle) were the only one involved, it would not be easy to see why the widow's right of inheritance should not extend to her husband's share in an undivided estate."

This question is perfectly pertinent, but it is one of the great points of difference between the Dâyabhâga- and the Mitâksharâ schools. The former assuming that under any conditions the widow would confer the greatest spiritual benefits on the soul of a deceased husband, provided he leaves no male issue, in consequence rules that, in such an emergency, she is *always* entitled to succeed to the property of the husband whether the latter be divided or not. The Mitâksharâ school, on the contrary, not admitting this superior spiritual power of a widow in an *undivided family*, excludes her from the position she holds in the Dâyabhâga school. But the Sivaganga case fell under the law of the Mitâksharâ school, and it is not for *us* to decide whether the view of the latter regarding the *spiritual* power of a wife is, or is not, more correct than that of the Dâyabhâga school.

In short, " there being no positive text governing the case before the Judicial Committee "*—simply because their Lordships could not refer to the very law authorities conformably to which alone the case should have been decided—they relied on an irrelevant text of the Mitâksharâ, and in applying the law of succession which is applicable only to a divided family, to an undivided one, even mistook this text itself.

That this judgment, if accepted as an authoritative interpretation of the Hindu law, would introduce a second principle, hitherto unknown, into the Hindu right of inheritance, and would entirely alter this law so far as undivided Hindu families are concerned, requires no further remark. But it seems equally clear that such a result could never have

* Page 16.

occurred if the Lords of the Judicial Committee had been in possession of more law texts than at the time were accessible to them.*

Another instance of the insufficiency of the law texts as hitherto translated, is afforded by the judgment of the High Court of Calcutta in the matter Gridhari Lall Roy *v.* the Government of Bengal, to which I have already had occasion to refer. And as it implies a large class of cases which may equally suffer from the same cause, it will not be deemed superfluous to draw attention to it.

I have just pointed out the great principle on which the Hindu law of inheritance is based. A kind of spiritual bargain is at the root of it. For the *direct* or *indirect* benefit of his future life, a person requires after his death certain religious ceremonies—the S'râddha—to be performed for him ; and since these ceremonies entail expense, his property is supposed to be the equivalent for such expense. A *direct* benefit from the S'râddha is derived, for instance, by a father, grandfather, and great-grandfather, to whom the funeral cakes are offered by a son, grandson, or great-grandson ; and an indirect benefit, by a deceased whose relatives present the funeral cakes to his *maternal*, grandfather, great-grandfather, and great-great-grandfather ; for by doing so, they perform for him that duty which, when alive, he would have been bound to perform.† Since, however, the nearer a person is related to the deceased, the greater is the direct or indirect benefit which he is able to confer on the latter's soul, the nearer, too, are his claims to the inheritance. But in the same degree as a person owes the S'râddha to a relative, the purity of his body is also affected by the death of that relative ; and the time within which the impurity he suffers in consequence can be removed by certain religious acts, depends therefore on the degree of relationship in which he stood to the deceased. Again, the right of

* Burnell, l.l., p. vii.

† See *e. g. Jîmûtavâhana*, XI., 1, 34 ; XI., 6, 13.

marriage is affected by the degree of relationship, for within certain degrees marriage is strictly forbidden by the Hindu law.

To obtain, therefore, an authoritative explanation of what, to a Hindu, are the degrees of relationship—and on these degrees, again, depends the *order* of succession—we have especially to look to those portions of the codes of law, and those separate treatises, which relate to the performance of the S'râddha, to the laws concerning impurity and the removal of it, and to the laws of marriage. All that occurs in regard to these important topics under the head of inheritance is but incidentally stated there, as serving the argument in point, but not with a view of being an exhaustive treatment of the matter. On the whole, there is but little to be gathered from the chapter of inheritance regarding the *relative* rights of heirs; and if the number of such heirs is large, and the degrees of their affinity are intricate, there would be a considerable difficulty in deducing, from the general argument merely, the precise right of a particular heir.

Now, in a complete code of law like that of Manu or Yâjnavalkya, the subject of S'râddha, impurity and marriage, is dealt with in the *âchâra* and *prâyas'chitta* (the first and third) portions of the work, not in the second, a portion of which is devoted to inheritance. But as of the commentatorial works on Manu, of the whole Mitâksharâ on the first and third books of Yâjnavalkya, of the great work of Raghunandana, and of the numerous important works and treatises dealing with these topics, such as the Nirńayasindhu, Dharmasindhusâra, S'râddhaviveka, S'râddhanirńaya, Âchârâdars'a, and many others, nothing whatever as yet exists in translation, it may easily be surmised that judges unable to read these works in the original language are deprived of a very important means of deciding on the relative rights of claimants to successions, and that in many instances their decisions may be at fault; for I do not think that, without a positive knowledge of the Hindu

religion in its greatest detail, any European could undertake to say whether, for instance, a brother confers more or less benefit on the soul of a brother than his daughter's son; or whether a maternal grandmother on the father's side enjoys that privilege in a higher or lower degree than a paternal grandmother on the mother's side. In the judgment of the High Court at Calcutta, on the case to which I am about to attach some remarks, the learned judges indeed say: "It would be difficult for a person at the present day to give a clear and intelligible reason for many of the eccentricities and anomalies which characterize Hindu law of all schools, and this notwithstanding the encomium of the Pleader on its stern logic and uncompromising adherence to principles once laid down."* But what in this passage is called "eccentricities and anomalies," is nothing but the consequence of the religious views on which the S'râddha ceremonies rest. It is certainly difficult—nay, impossible—to understand this consequence without a knowledge of its cause, but the latter once mastered in its detail, I believe that "the encomium of the Pleader" would not be found an exaggerated one.

The case in question is the one already alluded to, and the judgment which the High Court at Calcutta passed on it is highly instructive in several respects, for it tells us that a maternal uncle is to a Hindu no heir at all, even if no other relatives of the deceased dispute his claim. To understand this extraordinary finding, it is necessary to see from what premises it was deduced.

According to the degrees of relationship, the old lawgivers divided heirs into three categories, the first being that of the *Sapin'd'as*, or kindred connected by the *Pin'd'a* or the funeral cake offered at the S'râddha, and extending to the seventh degree (including the survivor)

* Gridhari Lall Roy *v.* the Bengal Government. 'Record,' p. 98.

in the ascending and descending male line; the second, consisting of the *Samânodakas*, or kindred connected by the libation of (udaka) water only offered at the S'râddha, who extend to the fourteenth degree; and the third comprising the so-called *Bandhus* or *Bândhavas*, who, in the chapter of the Mitâksharâ and the Dâyabhâga treating of them, Colebrooke generally renders *cognates*. It was as one of the last category that Gridhari claimed as the maternal uncle of the father of a deceased Zemindar. But the judges of the High Court of Bengal did not allow the claim, on the ground that he was excluded from the right of inheritance by the definition given of the term *bandhu*, in the sixth section of the second chapter of the Mitâksharâ. The passage on which the judgment relied runs thus :—

" *Bandhus* (cognates) are of three kinds; related to the person himself, to his father, or to his mother: as is declared by the following text. 'The sons of his own father's sister, the sons of his own mother's sister, and the sons of his own maternal uncle, must be considered as *his own Bandhus*. The sons of his father's paternal aunt, the sons of his father's maternal aunt, and the sons of his father's maternal uncle, must be deemed *his father's Bandhus*. The sons of his mother's paternal aunt, the sons of his mother's maternal aunt, and the sons of his mother's maternal uncle, must be reckoned *his mother's Bandhus*.' "*

Now, as in this list the *sons* of a father's maternal uncle are called *Bandhu*, but not the father's maternal uncle himself, and as Gridhari did not pretend that he was either a *Sapin'da* or a *Samânodaka*, he was nowhere.

His plea was, that the enumeration contained in the quoted text was *not an exhaustive one*, but merely an illustration of the line in which relatives called *Bandhu* must be sought for; that a father's maternal

* Two Treatises, &c., p. 352. Burnell, l.l., p. 37. Mayr, l.l., p. 140.

uncle stood in the same position to *his* son (named in that list) as a maternal uncle to *his* (also named there): and since a maternal uncle, he argued, was clearly intended to be included in the list, a father's maternal uncle belonged to the relatives of the Bandhu category. The correctness of the analogy was admitted by the judgment,* but it still denied that a maternal uncle *was* intended to be included in the list. The Lords of the Judicial Committee of the Privy Council, admitting the appellant's plea, reinstated him in his right, and there can be no question that they did justice to his claim; but as the arguments on which their judgment was based would have been stronger, and would have been less hypothetical, than they now are, had their Lordships been able to avail themselves of more and of safer texts than were at their disposal, and as neither the Bengal Government could ever have claimed the inheritance of Woopendro, nor the High Court of Calcutta pronounced against the Bandhu quality of a "maternal uncle," had they possessed the same advantage, it falls within the scope of this paper to illustrate by this case the serious deficiencies which in the present administration of the Hindu law must be unavoidable.

There were several ways of ascertaining whether the list of Bandhus relied upon by the Bengal Government, was an exhaustive one or not; or in other words, whether a father's maternal uncle and a maternal uncle were included in, or excluded from, it.

The first was to consult any of the works authoritatively treating of the duty of persons to perform the S'râddha, or of impurity which would affect relatives in consequence of a death, for as all such persons are eventually heirs, it would have been seen at once whether the few individuals named in the quoted text could possibly have been intended for an *exhaustive* definition of the Bandhu category. Now, in all such works, *e. g.* the Dharmasindhusâra, the Nirṅayasindhu, Raghunandana's

* Record, p. 96, line 62.

S'uddhitattva, &c,, this category comprises all the connections on the mother's side up to the seventh degree in the ascending and descending line ; and I may almost say, as a matter of course, the maternal uncle is distinctly mentioned by them. Even the passage from Jîmûtavâhana's Dâyabhâga, adduced above, might of itself have proved that in the absence of nearer relatives the " maternal uncle " has the right of performing the funeral rites for a sister's son, and it would have confirmed a similar conclusion resulting from the same Digest,* for in regard to a question like this there is no difference between the various schools. The judgment of the Judicial Committee says :†—" Mr. Forsyth, indeed, argued strongly against the right of the appellant to inherit, on the assumption that he was not entitled to offer the funeral oblations. But is this assumption well founded ? There is evidence, the uncontradicted evidence of the family priest and others, that the appellant did, in point of fact, perform the shradh of Woopendro ; and he seems, in the judgment of the priest, properly to have performed that function in the absence of any nearer kinsman." But the judgment adds :— " It is, however, unnecessary to determine whether this act of the appellant was regular or not. The issue in this case is not between two competing kinsmen, but between a kinsman of the deceased and the Crown." Yet on the *regularity* of this act all really depends, since the right of performing the S'râddha and that of succeeding are convertible terms, and, in the extreme case of an escheat to the Crown, even the king inherits on the condition that he provides for the funeral rites of the person to whom he succeeds, and the king is debarred from succession to a Brâhman's property, because a man of the second or an inferior caste cannot minister to the soul of one of the first. That the family priest allowed the appellant to perform the

* XI., 6, 12 and 13. † P. 3.

S'râddha for his nephew, certainly raised a strong presumption in favour of the maternal uncle's right to do so; but the *certainty* whether he really possessed this right could be established only on the ground of authoritative texts.

The second mode of settling the doubt consisted in referring to the decision of other authorities of the Mitâksharâ school; and of these, it would have been found that, for instance, the *Vivâdachintâmaṅi*, after quoting the same passage describing the three categories of Bandhus, as the Mitâksharâ, sums up its discussion by giving a list of heirs, amongst whom "the *maternal uncle and the rest*" correspond with the Bandhus of the Mitâksharâ.* The Lords of the Judicial Committee had the advantage of being able to resort to this method, since an important passage from the *Vîramitrodaya*—a digest which, as already observed, is often a full commentary on the Mitâksharâ—was accessible to them in a translation given at p. 15 of the Record; and they very justly referred to it in order to show that this authority included "the maternal uncle" in the Bandhu list alleged by the Mitâksharâ. But it so happened that they had ground to suspect the correctness of the translation of this passage in one particular, and in consequence amended it hypothetically where it appeared to them to be at fault. Their conjecture was perfectly right; but as this was the only passage of the kind from works of the Mitâksharâ school, on which they had to rely for *this* argument, it would doubtless have been much more satisfactory had they been in possession of an authoritative translation of the work to which the passage belongs.†

* See Tagore, pp. 298, 299; Sanskrit text, Calc. 1837, pp. 155, 156: . . . vyavahitasakulyas tadabhâve mâtulâdih'.

† The judgment says (p. 7):—"After stating that the term 'Sakulya' or distant kinsman found in the text of Manu, comprehends the three kinds of cognates, the commentator goes on to say,—'The term cognates (*Bandhus*) in the text of Jogishwara must comprehend also the maternal uncles and the rest, other-

The third and most accurate course of all was to ascertain whether the author of the Mitâksharâ himself, by whose law the case was governed, elsewhere gave a definition of the term used by him, since, according to the first principle of interpretation, such a definition would necessarily remove all doubts. That the Lords of the Judicial Committee and the learned judges below endeavoured to adopt this course also, it is needless to say: but for the reasons already explained, the materials at their disposal did not enable them to arrive at anything like a safe conclusion.

One obstacle that lay in their way arose from the fact, that Colebrooke in his 'Two Treatises' had accidentally varied the translation of the term Bandhu, and therefore made its identification in several places impossible. Thus in the *Mitâksharâ*, II., 1, 2; 5, 3; 6, 1 and 2, and in *Jîmûtavâhana*, XI., 1, 4; and 6, 12, he had rendered *bandhu* 'cognate," or 'cognate kindred': but in *Mitâksharâ*, II., 7, 1, 'relations'; and in *Jîmûtavâhana*, XI., 1, 5, 'kinsmen.' Had he not done so, the learned judges at Calcutta and the Lords of the Judicial Com-

wise the maternal uncles and the rest would be omitted, and their sons would be entitled to inherit, and not they themselves, though nearer in the degree of affinity, a doctrine highly objectionable.' The passage as translated at p. 15 of the Record has '*then* they themselves,' in place of '*not* they themselves.' If this be the correct reading, it would follow that even if the exclusion of the maternal uncle and others not mentioned in the text relied upon by the respondents from the list of Bandhus were established, they would still, as relations, be heirs, whose title would be preferable to that of a king." But oddly enough, at p. 24 of the Record where a translation of the same passage from the Vîramitrodaya occurs, the last words read: "and *then* they themselves, though *never* in the degree of affinity. A doctrine highly objectionable. Quoted from the Beermithodoya." According to the Sanskrit text of the Vîramitrodaya (Calc. 1815, 209, *b*. l. 8) there can be no doubt that "not they themselves" is the correct rendering; and that "*never*" is probably a misprint for "*nearer*"; yet as it is a common occurrenee in the Indian courts that Pan'd'its consulted by the litigants differ in their rendering of the same text (compare also the note to p. 178) how is a judge, not knowing Sanskrit, to decide which rendering is legitimate?

mittee would have found that in its commentary on the verse where Yâjnavalkya says that "in a case of disputed partition the truth should be ascertained by the evidence of relatives called *jnâti*, relatives called *bandhu*, by (other) witnesses, written proof or separate possession of house or field," the Mitâksharâ* explains relatives called jnâti, "bandhus on the father's side"; relatives called *bandhu*, "bandhus on the mother's side, viz. the maternal uncle and the rest."† And this

* II., 12, 2.

† *Yâjn.*, II., 150: vibhâganihnave jnâtibandhusâkshyabhilekhitaih′, vibhâgabhâvanâ jneyâ gr′ihakshetrais′ cha yautukaih′; whereupon the *Mit.* in both *Calcutta* editions (1815 and 1829) remarks: vibhâgasya nihnave 'palâpe, jnâtibhih′ pitr′ibandhubhih′ sâkshibhir mâtulâdibhir mâtr′ibandhubhih′ pûrvoktalakshan′aih′, &c.; in the *Benares* ed. (1853), vibhâgasya nihnave 'palâpe, jnâtibhih′ pitr′ibandhubhir mâtulâdibhih′ sâkshibhih′ pûrvoktalakshan′aih′, &c.; in the *Bombay* ed. (1863), vibhâgasya nihnave 'palâpe jnâtibhih′ pitr′ibandhubhir mâtr′ibandhubhir mâtulâdibhih′ sâkshibhih′ pûrvoktalakshan′aih′, &c. In the *Benares* edition the word *mâtr′ibandhubhih′* is evidently by mistake omitted before mâtulâdibhih′; and in the *Bombay* edition the order of the text-words of Yâjnav., *jnâti*, *bandhu*, *sâkshin*, is more closely followed than in the Calcutta editions, where the order is *jnâti*, *sâkshin*, *bandhu*. But unless in the latter editions this inversion is the printer's mistake only—which is very possible on account of the severing of sâkshibhih′ and pûrvoktalakshan′aih′—it may have been intended to show that *pitr′ibandhubhih′* is the explanation of *jnâtibhih′*, and *mâtulâdibhih′*, *mâtr′ibandhubhih′*, that of *bandhubhih′*, whereas otherwise it might be supposed (as Colebrooke did), that *jnâtibhih′* had been left unexplained, and pitr′ibandhubhir mâtulâdibhir mâtr′ibandhubhih′ were the words explaining *bandhubhih′*. That the former view, however, is the correct one, results from the following parallel passages in which the text of Yâjn. is commented upon: *Vîramitrodaya* (p. 223 *a*, l. 4, 5), vibhâgasya nihnave 'palâpe vibhaktamadhye kenachit kr′ite jnâtibhih′ pitr′ibandhubhih′ bandhubhir, mâtulâdibhih′, sâkshibhih′, &c., *Vyavahâra-Mâdhavîya* (MSS), jnâtayah′ pitr′ibândhavâh′, bândhavâs tu mâtulâdayah′ (*v. l.* mâtr′ibândhavâs cha; or without *cha*); *Jîmûtavâhana* (p. 359), prathamam′ jnâtayah′ sapin′d′âh′ sâkshin′ah′, tadabhâve bandhupadopanîtâh′ sambandhinah′, tadabhâva udâsînâ api sâkshin′ah′ (comp. 'Two Treatises,' p. 237; ch. xiv., § 3). Hence Colebrooke's rendering of Mit. II., 12 § 2, "if partition be denied or disputed, the fact may be known and certainty be obtained by the testimony of kinsmen, relatives of the father or of the mother such as maternal uncles and the rest, being competent witnesses as before

definition of *bandhu* is substantially therefore the same as that given by the Mitâksharâ,* where it defines *bandhu* as "a Sapin'd'a of a different family,† that is a Sapin'd'a on the mother's side. Nor does Jîmûtavâhana differ on this point from the Mitâksharâ school, for when speaking of the sense in which Yâjnavalkya understood the word *bandhu*, he says,‡ "to intimate that the *maternal uncle* shall inherit in consequence of the proximity of oblations, as presenting offerings to the maternal grandfather and the rest, which the deceased was bound to offer, Yâjnavalkya employs the term *bandhu*."

But there are other passages, also, in the Mitâksharâ which clearly show that its author did not intend to quote the list of the three categories of Bandhus as an exhaustive one. They are contained, however, in that portion of the Mitâksharâ not translated by Colebrooke. One of these had been supplied to the High Court at Calcutta for the purposes of the suit, but was singularly misunderstood by it. In Book II., v. 264, Yâjnavalkya where speaking of co-traders lays down this rule; "if one (of them) having gone to a foreign country, dies, let the heirs, the *bândhavas, jnâtis,* or those who have come, take the property; and in their default the king." Whereupon the Mitâksharâ comments: "When of partners 'one who has gone to a foreign country dies,' then let 'the heirs,' that is, his son or other lineal descendants; 'the *bândhavas*,' that is, *the relatives on the mother's side*, viz. *the maternal uncle and the rest;* 'the *jnâtis*,' that is Sapin'd'as, except the

described"—has to be altered into: "if partition be denied or disputed, the fact may be known and certainty be obtained by (the testimony of) relatives called *jnâti*, viz. the bandhus on the father's side; or (that of) relatives called *bandhu*, viz. the bandhus on the mother's side, such as maternal uncles and the rest, or (other) witnessos, as before described."

* II., 5, 3.

† Bhinnagotrân'âm' sapin'd'ânâm bandhus'abdena grahan'ât.

‡ XI., 6, 12.

lineal descendants ; 'or those who have come,' that is, the partners in business who have come from the foreign country, take his share ; and 'in their default,' that is in default of 'the heirs,' &c., let the king take it."*

* The translation of this passage as given by me above differs from that which the Bengal Government had laid before the High Court, and it also differs from that tendered by the Appellant to the Court. The Record (p. 97) says :

"The words are, as translated by the Defendant, Respondent [*i.e.* the Bengal Government] :—

"*Text.*—'When one dies in a foreign country, let the descendants (Bundhoos), cognates, gentiles, or his companions, take the goods, or, in their default, the king.'

"*Commentary.*—'When he who is gone to a foreign country, of those who are associated in trade, dies, then his share should be inherited by his heirs, *i.e.* the son and other descendants, *viz.* (Bundhoos) cognates, *i.e.*, those on the mother's side, the maternal uncle, and others, *viz.*, the gentiles, *i.e.* the Sapindahs, besides the son and other descendants, and those who are come, *i.e.*, those among them associated in trade, from a foreign country, or in their default, the king shall take.'"

No wonder that the Appellant objected to this jumble of words, where in the '*Text*,' 'Bundhoos' would be an explanation of 'descendants,' instead of 'cognates'; and in the *Commentàry*, too, 'Bundhoos' and 'gentiles' are made to explain the same word 'descendants'; and the word 'besides' is intended for '*except*.' But neither is the Appellant's version unobjectionable. It is given after the foregoing quotation, by the Record, in these words :

"*Text.*—A person having gone to a foreign country, his goods would be taken by his heir, and those related *through a Bundhoo, or to a Bundhoo* or agnatic relation, or person returning from that country. In default of heirs, the king will take." And his translation of the Commentary of the Mitâhsharâ is as follows :

"When a person from amongst the persons trading in fellowship, or common stock, goes to a foreign country and dies there, his share will be taken by his heir, *i.e.* offspring, *i.e.* son and other offspring, Bundhoos, relations on the mother's side, maternal uncles, and the rest, or others, agnatic relations, that is to say, Sapindas, other than offspring, or by those coming back. Those who amongst the co-traders return from a foreign country, shall take ; in default of them, the king."

If this version were correct (I am not here alluding to the last sentence which is perhaps misprinted for ". . . . coming back ; *viz.* those who . . . ."), the

In this passage the High Court at Calcutta declared "The words, maternal uncle and the rest," to be "an insertion over and above what is contained in the principal text as to Bundhoos"; and added: "Under these circumstances, as the translated passage refers to an exceptional state of things, it may be that the ordinary succession has been interfered with in a particular other than that above suggested, though the succession professes to follow the ordinary course in all particulars save one."*

It need scarcely be observed that there is not the slightest ground for such a theory; and the judgment of the Judicial Committee of the Privy Council very justly remarks (p. 7): "Their Lordships cannot admit the reasonableness of this hypothesis, and think that even on the Mitâksharâ the question under consideration is at least uncertain." Yet instead of affording *absolute* proof that the definition here given by the Mitâksharâ of the term *bândhava* or *bandhu* is in accordance with the definition which the same work *everywhere* gives when it thinks proper to paraphrase the word *bandhu*, and that consequently no new definition was here intended for an "exceptional state of things," the

text of Yâjnavalkya would treat of persons who are "related *through a Bandhu*, or *to a Bandhu*," while the *commentary* of the Mitâksharâ would speak of Bandhus only; and as the words "related through a Bandhu, or to a Bandhu" are meant for Yâjnavalkya's word *bândhava*, it would follow that relatives called *bândhava* are more distant heirs than those called *bandhu*. Nor should I feel surprised if possibly a doubt of this kind had some influence on the High Court, when, as we shall see, it founded a very strange theory on this passage. But *bândhava*, though a derivative of *bandhu*, has absolutely the same sense as the latter, as results, not only from all the law-commentaries, but also from the grammatical Gan'a prajnâdi to *Pân'ini* V. 4, 38.—Here then are two litigants, both differently rendering the same important text to which they appeal; and a Law Court, unable to examine this text in the original, is to decide which of them is right, or whether both are wrong!

* Record, p. 98.

judgment of the Judicial Committee proceeds to fortify its position by the passage, above alleged, from the Vîramitrodaya, and therefore does *not* remove the doubt whether the Mitâksharâ itself countenanced the theory objected to or not.

Yet one such definition of *bandhu*, literally agreeing with that in the passage just quoted, might have been found in the passage mentioned before;* and another, occurring in another, untranslated portion of the Mitâksharâ, is still more explicit: for it distinctly refers to the very passage in question, which contains the Bandhu list, and settles therefore even the last remnant of uncertainty.

In Book III., v. 24, Yâjnavalkya, treating of the season of impurity caused by the death of friends, says: "Purification lasts a day when a guru dies, or a boarder, a vedic teacher, a *maternal uncle* or a Brâhman versed in one vedic school." On which words the Mitâksharâ remarks: "'Guru' means a spiritual teacher; 'boarder,' a pupil; 'vedic teacher,' him who explains the Vedângas. By the word '*maternal uncle*,' the relatives on the female side, viz. the bandhus of one's self, the mother's bandhus, and the father's bandhus are implied; and who these are has been shown in (the commentary on) the verse of Yâjnavalkya, which begins with the words, 'the wife and the daughters,'"† that is, on the very same verse, II., 135 (Coleb., p. 324), to which the whole commentary of Sects. 1–7 of ch. ii. of the Mitâksharâ, and consequently also that of Sect. 6 (Coleb., p. 352) belongs.

In short, the maternal uncle, so far from being *excluded* from the *Bandhus*, is almost invariably named as the very type of the whole category; and what relative indeed on the mother's side could have a nearer claim to that title than he?

* P. 27, l. 7.

† Mâtulagrahan'enâtmabandhavo mâtr'ibandhavah' pitr'ibandhavas' cha yonisambaddhâ upalakshyante, te cha patnî duhitara ity atra dars'itâh'.

Now that in spite of such overwhelming evidence, even in one of the clearest cases possible, any law-court could nonsuit a claimant simply because the mass of proof which could have supported his right, was not accessible in English to the judge, appears to involve so anomalous a state of things that its continuance must be thought to be very undesirable.

The best and most efficient means of remedying it would of course be a thorough acquaintance of the Indian judges with the *original* text of the Hindu law literature, and their ability to examine for themselves in the original language all the texts which may have a bearing on a case before them. Nor need such a remedy be looked upon as chimerical; for the study of Sanskrit required for a legal training to this end would not imply more than the labour of a few years.

But as some time might have to elapse before this object could be attained, it is at least to be hoped that the most immediate wants pointed out in this paper will be provided for by the competent authorities.

A thorough revision of all the translations of Hindu law texts hitherto used in the Indian Courts should be undertaken at once, not in order to set them completely aside, but with a view of correcting their mistakes while preserving all that is good in them, and of harmonising their quotation of the same texts so as to render the identification of the latter possible.

And, besides, the most important works, as yet accessible only in Sanskrit, should be translated into English, so that at least the whole of Yâjnavalkya's Code, with the Mitâksharâ, the Vîramitrodaya, some commentaries of Jîmûtavâhana's Dâyabhâga, some of Raghunandana's Tattvas, the Nirṅayasindhu, the Dharmasindhusâra, the principal treatises on S'râddha, impurity, and marriage, and those on adoption, should soon be within the reach of an English judge.

The study of Sanskrit is now so successfully pursued in India, and native scholarship has already given such excellent proof of its mastery both of Sanskrit and English, that with united efforts in India itself, there would be no difficulty, within a few years' time, in accomplishing this greatly needed work.

APPENDIX TO PAGE 166.

The oldest Hindu lawgivers lay down the rule that members of a united family have a joint community of worldly and spiritual interests. Hence, according to them, their income and expenditure is conjoint; they cannot individually accept or bestow gifts, or make loans; nor can they reciprocally bear testimony, or become sureties for one another; moreover, certain of their religious duties being undivided, one member of the family only is entitled and obliged to perform them for the rest. Accordingly, in doubtful cases it was held that partition of a family was proved, if it could be shown that all or any of these criteria of union were wanting. The requirements of an advancing civilization, however, led to a more definite explanation of this general rule. Trade, commerce, or similar causes, often compelling co-parceners to live away from home, or in different houses, the whole of their affairs could not be managed conjointly, nor could *all* their religious duties be performed in common. The difficulties, therefore, of determining from the criteria already alluded to whether a family was a divided or a united one, multiplied in time, and the works of Colebrooke, Strange, Macnaghten, and Grady very justly dwell on them.* A more recent work, however,

* See Mr. Standish Grove Grady's 'Treatise on the Hindu Law of Inheritance' (1869), where, in Sec. ix., pp. 415 ff., on 'Evidence of Partition,' all that relates to this subject is very carefully collected. See also the 'Manual of Hindu Law,' by the same learned author (1871), Sec. ix., pp, 273 ff.

that by Mr. R. West and Dr. J. G. Bühler,*, is not satisfied with admitting, as its predecessors had done, that there are difficulties which must be dealt with according to their merits and as they arise; it summarily rejects *all* the criteria or 'signs of separation,' mentioned by the native authorities, as inconclusive, and consequently as devoid of value in a legal sense.

"The will of the united co-parceners to effect a separation," the Editors of this Digest say,† "may be (1) stated explicitly; (2) or implied. As to express will it may be evidenced by documents or by declarations before witnesses . . . ." And "as to implied will," they continue,‡ "the Hindu authors are prolix in their discussions of the circumstances, from which separation or union may be inferred. According to them the 'signs' of separation are:—(*a*) the possession of separate shares; (*b*) living and dining apart; (*c*) commission of acts incompatible with a state of union, such as trading with or lending money to each other, or separately to third parties, mutual gifts or suretyship, They add also giving evidence for each other, but from this in the present day no inference can be deduced. (*d*) The separate performance of religious ceremonies, *i.e.* of the daily Vais'vadeva, or food-oblation in the fire preceding the morning meal; of the Naivedya, or food-oblation placed before the tutelary deity; of the two daily morning and evening burnt-offerings; of the S'râddhas, or funeral oblations to the parent's manes, &c." The Editors then add: "None of these signs of

* A Digest of Hindu Law; from the replies of the Shastris in the several Courts of the Bombay Presidency. Book II. Partition, Bombay, 1869. As this work reached me after the foregoing paper had been read to the East India Association, the translation of the chapter of the Vîramitrodaya "On a woman's separate property," contained in its Appendix (pp. 67 ff.), was then unknown to me, and has to be added to the translations of Hindu Law Texts enumerated at pp. 5 and 6.

† Introduction, p. xii. ‡ P. xiii.

separation can be regarded as, by itself, conclusive"; and again they say:* "As no one of the marks of partition above enumerated can be considered conclusive, so nether can it be said that any particular assemblage of these alone will prove partition. It is in every case a question of fact to be determined like other questions of fact, upon the whole of the evidence adduced, circumstantial evidence being sufficient."

But here it must first be asked what the Editors of this Digest call "evidence" in addition to that admitted by them as such under the head of "express will"? For, if none of the evidence afforded by the "signs of separation,"—whether this evidence be taken by itself or combined,—can, as they assert, establish a proof of partition, what evidence is there left but "documents" or "declarations before witnesses"?† Yet as denial of separation, and litigation ensuing on it, will rarely occur when the party interested in the denial knows that his opponent is in possession of a partition deed, or can produce witnesses before whom the intention to separate has been formally declared, and as under such circumstances it will offer no difficulty to a judge, while, on the other hand, the cases presenting a real difficulty will just be those in which no documentary or other evidence of a similar nature exists,—it is hard to appreciate the value of the advice which the Editors afford in their last quoted words. But as the most striking part of their statement consists in the summary rejection, as legal proof, of all and each of the "signs of separation,"—whereas some of these are so strongly relied upon by the native authorities, and have been so cautiously spoken of by Colebrooke, Strange, Grady, and other European writers of eminence,—it will not be inexpedient to inquire whether in this matter a judge may henceforth feel entitled to dispense with a knowledge of all that is stated on this point in Hindu works, and simply

* Introduction, p. xv. † P. xii.

content himself with endorsing the opinion of the Editors of the Bombay Digest.

One of the most prominent "signs of separation," as we have seen, is based on religious grounds. It concerns the joint or separate performance of certain religious rites, some of which are mentioned in the quotation just given from the Bombay Digest. In regard to the legal irrelevance of these, the Editors of this Digest even grow emphatic. "The separate performance of the Vais'vadeva sacrifice, of S'râddhas and other religious rites," they say,* "is still less conclusive," viz. than the "living and dining apart" previously spoken of and declared by them to be "not conclusive of the fact" of separation. They seem to arrive at this inference from the interrogatory connected with a case to which they refer, and from a passage of a native authority to which they point, as forming part of their remarks on this case.

The case is that reported by them at p. 58. It gave rise, on the part of the Court, to the following amongst other questions: "He [viz. the son of an elder wife] was in the habit of performing the sacrifice called Vais'vadeva on his own account. Should he be considered a separated member of the family? and can any man whose food is cooked separately perform the ceremony, or is it a sign of separation?" Upon which the Pan'd'it so questioned replied: "Those members of a family who individually perform the ceremonies of Vais'vadeva and Kuladharma, and have signed a Fârikhat, may be considered separated. It does not appear from the Shastras that the elder son of a person is obliged to perform the Vais'vadeva on his own account, although his father and step-brother are united in interests and he himself lives and cooks his food separately in the same town without receiving the share of his ancestral property. A person may, however, perform the ceremony by the permision of his father."

* P. xiv. † P. 59.

On this reply of the Pan'd'it the Editors again observe: * "The Shastri is right in not considering the separate performance of the Vais'vadeva as a certain sign of 'partition,' though it is enumerated in the Smr'itis among these signs. The general custom is, in the present day, that even undivided coparceners, who take their meals separately, perform this ceremony, at least once every day, each for himself, because it is considered to purify the food." But here it may be observed that all the Pan'd'it really said was, that when a man lives and cooks his food apart from his father and stepbrother who are united, it does not appear from the Shastras that he is *obliged* to perform the Vais'vadeva on his own account; and what follows therefore from his words is, that if, living apart from his relatives, he *were* obliged to perform the Vais'vadeva, such an *obligation* would prove that there was *no union* between him and the relatives named. The real drift of his answer, therefore, was not to show, as the Editors suppose, that the separate performance of the Vais'vadeva was *in no case* a "certain sign of partition," but to recommend to the Court the investigation of the fact whether the person in question was or was not "*obliged*" to perform this ceremony separately from his relatives.

In a note on the word Vais'vadeva the Editors had previously said† that "this ceremony is performed for the sanctification of food before dinner," and after the words above quoted (". . . . because it is considered to purify the food"), they continue: "We subjoin a passage on this point from the *Dharmasindhu*:‡ (Dharm. f. 90, p. 2, l. 3 and 6 Bombay lith. ed.): *juhuyât sarpishâbhyaktair gr'ihye 'gnau laukike 'pi vâ, yasminn agnau pached annam' tasmin homo vidhîyate. Avibhaktânâm pâkabhede pr'ithag vais'vadevah' kr'itâkr'ita iti bhat't'ojîye;* 'Rice mixed

* P. 60. † P. 59.

‡ An abbreviation, by the Editors, of *Dharmasindhusâra*, which is the full name of the work meant, by *Kâs'inâtha.*

with clarified butter should be offered in the sacred domestic fire, or in a common fire. The oblations (at the Vais'vadeva) should be made in that fire with which the food is cooked . . . . Bhat't'ojîdîkshita declares that, if members of an undivided family prepare their food separately, the Vais'vadeva-offering may be performed separately (in each household) or not."

Their remark, however, regarding the purpose of the Vais'vadeva, as well as their quotation from the Dharmasindhusâra and their translation of it, are very inaccurate. For, as will presently be seen, the Dharmasindhusâra states that the object of the Vais'vadeva is the consecration of one's self *and* of the food; whereas the Mitâksharâ, in commenting on Yâjnavalkya, I., v. 103, altogether contests the doctrine that the V. is intended for the consecration of the food, and after some discussion on this theory, arrives at the conclusion that it solely concerns the (spiritual) benefit of the person performing it. And as in quoting from the Dharmasindhusâra the Editors in the beginning of the passage alleged have left out half a verse which *essentially* belongs to it, while before the words ascribed to Bhat't'oji they have omitted another *material* portion of the text, their translation is not only incorrect, but the very ground on which the author of the Dharmasindhusâra adduced Bhat't'oji, has been misunderstood by them.* But even supposing that all the remarks of the Editors on the Vais'vadeva were correct, they would still not prove anything in respect of the legal inconclusiveness of "S'râddhas and other religious rites," all of which

* The essential words omitted before '*juhuyât*' are : gr'ihapakvahavishyânnais tailakshârâdivarjitaih', (*juhuyât*, &c.) ; and those which should have preceded and are absolutely required at the quotation '*avibhaktânâm*, &c.,' from Bhat't'oji, read : sa châyam' vais'vadeva âtmasam'skârârtho 'nnasam'skârârthas' cha ; tenâvibhaktânâm pâkaikye pr'ithag vais'vadevo na, vibhaktânâm' tu pâkaikye' pi havishyântaren'a pr'ithag eva, (*avibhaktânâm*. &c.) For the translation of the whole passage, see p. 191, ll. 7 ff.

are included in their sweeping assertion which sets these rights aside for the purpose of legal evidence.

As the object of this paper, however, is not to correet the mistakes of an individual writer, but to show how necessary it is that a judge should examine for himself all that the native authorities teach in regard to questions that may come before him, and how the very replies of even the most learned Pańd'its may be conducive to fallacies —since the correctness of a reply mainly depends on the correctness and pertinence of the question put,—I will, as an illustration of the difficulties which beset this subject, add a translation of a few passages from three works only, since even these will clearly prove that the bearing of the performance of certain religious ceremonies on the question of union or division cannot be dispatched in the offhand manner implied in the ruling of the Bombay Digest.

In treating of the daily religious duties of a Hindu the *Dharmasindhusâra* under the heading 'on the duty of the fifth division' (of a day divided into eight parts) contains the following passage: *

"The Vais'vadeva is to be performed for the removal of (sins committed in) the five *Sûnâs.* The five *Sûnâs* are the five places where injury may be done (to living beings); viz. the wooden mortar in which grain is threshed; the stone slab on which condiments, &c., are ground with a muller; a fire-place; a water-jar, and a broom.† The commencement of the Vais'vadeva is early (*i.e.* in the morning), not like that of the Agnihotra, late (*i.e.* in the evening); accordingly they resolve to perform it, as expressed in the words: " early and late, the Vais'va-

* Dharmas., ed. Bombay (1861), III., A., fol. 95 *b*, ll. 7 ff.

† The object of the Vais'vadeva is similarly defined in a passage of S'âtâtapa quoted in Raghunandana's Ahnikatattva (ed. Calc. 1834, vol. i., 251); and the five Sûnâs are frequently alluded to, *e.g.* in Manu, III., 61, S'ankarâchârya's comm. on the Bhagavadgîtâ, III., 13, and they are also defined in Anandagiri's and S'rîdharasvâmin's gloss on the latter.

deva (should be performed").* The five great sacraments are to be performed day by day; and these are the sacrament of the Veda, that of the gods, that of created beings, that of the manes, and that of men.† The sacrament of the Veda has been already explained.‡ Those who follow the ritual of the Rigveda consider that the Vais'vadeva consists of the three sacraments of the gods, created beings, and manes. The sacrament of men is the giving food to men. An oblation of food cooked in the house and fit for sacrificial purposes,§ free from sesamum-

* From *Raghunandana* (vol. i. p. 250) and similar works it results that the proper time for the performance of the V. is always during the day, and that the evening performance of this ceremony is permitted only under special conditions, as for instance when 'cooking' takes place for the entertainment of a guest. Some authorities, moreover, absolutely forbid the *repetition* of the ceremony on the same day, whether by day time or in the evening. But compare p. 193.

† These five *mahâyajnâs*, 'great sacrifices' or 'great sacraments,' are mentioned in the oldest works, *e.g.* in the S'atapatha-Brâhman'a (XI., 5, 6, 1)—also quoted from this Brâhman'a in S'rîdatta's Achârâdars'a— ; in Manu, I., 112, &c., Yâjnavalkya, I., 102, &c.—*Manu* (III., 70) defines them as follows : "teaching (which, according to Kullûka, includes reading, viz. the Vedas) is the sacrament of the Veda; offering rice, &c., or water is the sacrament of the manes ; an oblation (of food) in fire is the sacrament of the gods ; presentation of food (viz. throwing ghee or rice, or the like, in the open air) to created beings, is the sacrament of created beings ; hospitality is the sacrament of men."

‡ Viz. in the preceding portion of the text, here not translated.

§ Substances, called *havishya*, or fit for sacrificial purposes, are frequently mentioned in ritual works, as in the Kâtyâyana S'rauta Sûtras (VII., 2, 2), or in works dealing with ritual matters, as in Manu, Yâjnavalkya, &c. The *Mitâksharâ* in its comment on *Yâjn.*, I., 239, names as such : rice of different varieties, barley, wheat, kidney-beans of two varieties (phaseolus mungo and phaseolus radiatus), wild grain (wild roots, or in general such food as forms the diet of an ascetic), a black potherb *kâlas'âka*, *mahâs'alka* [explained as a kind of fish; Wils.; a prawn or shrimp], cardamons, ginger, black pepper, asafœtida, molasses, candied sugar, camphor, rock-salt, sea-salt, bread fruit, cocoanut, the plants called *kadalî* and *badara*, the produce of a cow,—viz. milk, curds, butter, or other preparations made of her milk,—honey, flesh, &c. On the other hand, as substances unfit for, sacrificial oblations the *Mitâksharâ* names : *kodrava* (paspalum kora), *masûra*

oil, factitious salt, and such like (unsacrificial substances), and dressed with ghee, one should make in the (sacred) domestic fire, or the ordinary fire; (for) the law ordains that such an oblation (should be made) in the fire with which a man cooks his food.* Since the S'râddha occurring at fixed periods, is performed by (performing) the sacrament of the manes included in the Vais'vadeva ceremony, no entertainment of Brâhmans takes place (as it would) on behalf of the S'râddha occurring at fixed periods. And since also the S'râddha, (due) on the day of new-moon, is performed by (performing) it (viz. the sacrament of the manes), Bhattoji says, that those who are unable to perform the Srâddha, due on the day of new-moon (regularly), should do so once (at least) in the course of a year. In the case of (impurity arising from) childbirth, the rule is that the five great sacraments are dropped. And this Vais'vadeva is performed for the sake of one's own consecration and that of the food.† Therefore amongst members of a united family when they cook (their food) in common, a separate performance of the Vais'vadeva (by each member) is not (allowed); but amongst members of a divided family, even when they cook (their food in com-

(ervum hirsutum), chick-pea, *kulattha* (dolichos biflorus), pulâka, a legume called *nishpâva*, a kind of bean called *râjamâsha* (dolichos catjang), the white pumpkin gourd, two kinds of the egg-plant (*vârttâku* and *vr'ihati*), *upodikâ* (basella rubra), the shoot of a bamboo, longpepper, orris root, *S'atapushpâ* (anethum sowa), saline earth, ordure, factitious salt, a buffalo's-chounri, her milk,—curds,—butter, or other produce of buffalo's milk; &c.—Compare also on the same subject Manu, III.. vv. 226 ff., the Vishn'u-Purân'a, Book III., ch. 16; the *Nirn'ayasindhu*, I., fol. 13; *Raghunandana*, vol. i., pp. 70, 142 and 250; *S'rîdatta's Achârâdars'a* (Benares, 1864), fol. 56 *a*; &c.

* The Achârâdars'a (fol. 56 *a*) which quotes a passage to the same effect from Angiras, regarding the sacred and ordinary fire, adds: "the sense of this passage is: a man who maintains a sacred fire should cook his food and make the oblation, in this (sacred) domestic fire; one who does not maintain such a fire, in the ordinary fire."

† See p. 189, ll. 15 ff.

mon, the Vais'vadeva (must be performed) separately (by each of them) with some sort of substance fit for sacrificial purposes. According to Bhat't'oji, amongst members of a united family, when the cooking (of their food) does not take place in common, the Vais'vadeva may be performed separately or not.* When no cooking (of food) takes place on the eleventh and similar days (of abstinence), the Vais'vadeva should be performed with grain (esp. of rice), milk, curds, ghee, fruits, water, and the like substances. Let a man perform it with rice and so on, (throwing such substances) with his hand,—or with water, (throwing the latter) with his hollowed palms, into water; but let him at the performance of the Vais'vadeva avoid *kodrava* (paspalum kora), chick-pea, the kidney-bean (phaseolus radiatus), *masûra* (ervum hirsutum), *kulattha* (dolichos biflorus), and all factitious salt called *kshâra* and *lavańa*. When a man lives abroad, the Vais'vadeva should be performed at his house by the instrumentality of his son, priest, or other (proper substitute); and should there not be at his house such other (proper) agent he himself must perform it abroad. Those who conform to the ritual of the R'ig- and Black- Yajur-Vedas should perform it

* The words "*an oblation of food cooked in the house*, &c." (p. 191, ll. 7 ff.) to "*performed separately or not*," are the complete passage, represented in the Bombay Digest by the words "*rice mixed*" to "performed *separately* (*in each household*) *or not*" (see above, p. 188, last l. ff). The correctness of the last words "performed separately or not" might at first sight seem doubtful, since their value in Sanskrit is the compound *kr'itâkr'ita*, and this word (according to Pân'., II., 1, 60, not a Dvandva, but a Karmadhâraya) would literally mean 'done —not done,' *i.e.* 'imperfectly done,' or 'done as if not done,' *i.e.* 'done in vain.' That in the quotation from Bhat't'oji, however, the word has not this sense, but the one given it in the translation of the Bombay Digest, and in that above, follows not only from the sense in which the word *kr'itâkr'ita* is unmistakably used in other passages of the *Dharmasindhusâra* and *Nirn'ayasindhu* (since its meaning there becomes clear from the interpretations following it), but also from the injunction of *As'valâyana*, which is analogous to that of *Bhat't'oji* (see p. 196, ll. 24 ff.).

twice (a-day), according to the text which says: 'it should be performed by day and by night.' But if unable to do so, they may, at the same time, repeat it or perform (the day and night Vais'vadeva) together.* The usual practice of followers of these two Vedas is to cook their food and perform the Vais'vadeva, in the ordinary fire."†

In the chapter treating of the religious duties of the sons *whose father is alive*, the same work contains the following statement:‡

"Sons not separated from their father should not perform the Vais'vadeva separately; for it is stated that 'one who lives upon the cooking of (*i. e.* the food cooked by) his brother, is (like) one who lives upon the cooking of (*i.e.* the food cooked by) his father.' Hence, if the father maintains a sacred fire, even when the cooking and the Vais'vadeva are effected with the sacred fire, his unseparated sons, although they, too, maintain a sacred fire, should not perform the Vais'vadeva separately. Those who think that, in the absence of cooking, a fire becomes an ordinary one, may cook merely in order to consecrate their fire. But by members of a divided family the Vais'vadeva should be performed separately (by each of them). And since (according to the followers of the R'igveda-ritual)§ the Vais'vadeva consists of the three daily sacraments, viz, those of the gods, created beings and manes, those (who entertain this doctrine regarding the Vais'vadeva), even if their father is alive, will perform the (daily) sacrament of the manes, forming part of the five great (daily) sacraments. To the followers of the Black-Yajurveda, however, the five great (daily) sacraments are distinct from the Vais'vadeva: they (consequently) perform the (daily) sacrament of

* See note * of page 191.

† There follows a description of the manner in which the V. is performed by members of the Vaishn'ava and other sects, of the rules relating to the *Naivedya* ceremony, and other detail which it is not requisite here to enter into.

‡ Bombay ed. (1861) III. B., fol. 3 *a*, ll. 8 ff.

§ See p. 194, ll. 4 ff.

the manes, if their father is alive, (only) when they are members of a divided family."

In the chapter treating of those entitled to perform the *S'râddha*, the same work says;*

"The son of one's own body has the preferential duty (and right) to perform the annual and other S'râddhas and the funeral ceremonies which take place immediately after death. If there are several such sons, the *eldest* has this duty (and right); on failure of him, or if he is not present, or if his right has lapsed through having become an outcast or similar (disqualifications), the eldest after him. The statement, however, (made elsewhere) that in the absence of the eldest the youngest has always this right, not the sons between them, is without authority. Hence, if sons live in a state of division, the *eldest*, after having received from the younger (brother) the (necessary) property, should perform all the funeral rites up to that called Sapin'd'ana.† But the annual and other S'râddhas each of them must perform separately. If, however, sons live in a state of union, even the annual and other S'râddhas must be performed by one of them only. (Still) since what is done by one (member of a united family) accrues to the benefit of the rest, all the sons should keep such rules as the observance of chastity, the not touching another person's food,‡ and similar ones. If sons do not live in the same place, whether they stay in different countries or in different houses, each of them should perform the annual and other

* III. B., fol. 4, *a*, ll. 10 ff.

† That is, inclusive of the first sixteen S'râddhas which end with the *Sapin'd'ana*, also called *Sapin'd'îkaran'a*.

‡ *Yâjnavalkya*, III., 241, classes 'feeding on others' amongst the crimes, called *upapâtakâ*, which are only a degree less than the *mahâpâtaka*, or most heinous offences. *Manu*, III, 104, foretells parasites that, after death, they will become the cattle of their hosts.

S'râddhas separately, even if they are members of an undivided family."*

In the important chapter on the S'râddha itself, under the head of "*settled rules relating to members of a divided and an undivided family,*" the same work, after a general reference to previous statements, has the following: †

" Of brothers and other members of a family, divided in property, all the (religious) duties are separate. But that the funeral ceremonies and the sixteen S'râddhas up to the Sapin'd'ana (which are performed during the first year after a death) should be performed by one of them only, has been already stated.‡ Yet if members of a family are undivided, all such acts as may be done without (spending any) property, *e. g.* bathing, the Sandhyâ-devotion, the sacrament (*i.e.* reading) of the Vedas, muttering of prayers, fasting, reading the Purân'as, are done (by each of them) separately; whether such acts recur at regular periods, or are occasional, or (purely) voluntary; separately, also, such ceremonies of regular recurrence, enjoined by vedic or traditional works, as are performed with fire. Another view founded on the teaching of Kâtyâyana and others is, that 'one who lives on the cooking of a brother is (like) one who lives on that of a father.' Of the five great (daily) sacraments those of the gods, created beings, manes, and men§ should be performed by the *eldest* (brother) only. If the cooking is done separately (by members of a united family) those who conform to the rules of Âs'valâyana, say that the separate performance of the Vais'vadeva (by

* The rest of this chapter regulates the rights of younger sons in the absence of the eldest, and in their absence those of other members of a family successively to perform the S'râddhas. Its importance regarding the rights of inheritance, requires no remark; but as these rights do not concern the present paper, no further extract on this point is here given.

† III. B., fol. 37 *b*, ll. 5 ff.

‡ See p. 195, ll. 13 ff.

§ See p. 191, ll. 1 ff.

each member of such a family) is optional.* Since, if the eldest (brother) does not perform the Vais'vadeva, it is (the duty) of a younger (brother) to perfect the cooking (of the food by means of this ceremony), some enjoin that before eating, some of the food should be thrown by him into the fire, and some given to a Brâhman. The worship of the (tutelary) gods may be performed (by each of them) separately, or (by all of them) conjointly. The annual S'râddhas, those performed on the day of new-moon, at the sun's entrance into a new sign, eclipses and similar S'râddhas should be performed by the eldest only. The S'râddhas, also, performed in holy places (*e. g.* of the Ganges) and those of the same category should be performed by one member only of an undivided family, if all the members happen to be together (in the place), but separately, (by each member) if they happen to be in different places. The same rule applies to the S'ràddha, which is performed at (the holy city of) Gayâ (in Behar). As regards sacrificial ceremonies, at which voluntary gifts are made, and which can be effected only by means of (spending some of the family) property, the right of performing them depends on the assent of the brothers and other (members of the united family). The S'râddha on the 13th day of the dark fortnight of the month Bhâdra, which is under the asterism Maghâ, it is stated, should be performed separately by each member (of an undivided family)."†

* Compare p. 193, ll. 3 ff.

† Compare for the S'râddhas to be performed at holy places and on the 13th of the dark fortnight of the month Bhâdra, also the following passages from Wilson's translation of the *Vishnu-Purâna* (III., 14, vv. 17-19). "He who, after having offered food and libations to the Pitr'is, [manes] bathes in the Ganges, Satlaj, Vipâs'â (Beas), Sarasvatî, or the Gomatî at Naimisha, expiates all his sins. The Pitr'is also say: 'after having received satisfaction for a twelvemonth, we shall further derive gratification by libations offered, by our descendants, at some place of pilgrimage, at the end of the dark fortnight of Mâgha'"; and (*ibid.*, III., 16, vv. 17 ff): "In former times, O king of the earth, this song of the Pitr'is was

The work from which these passages are taken is a compilation from other works, among which it prominently names the *Nirn'ayasindhu*, composed by *Kamalákara*, in the year 1611, A. D.* As the latter is held in especial esteem by the Mahrattas for whose benefit, it seems, the Bombay Digest was chiefly intended, I will add a translation of its chapter: "*On the settled rules relating to members of a divided and undivided family*," which likewise forms part of its section on the S'râddha.† It runs thus:

heard by Ikshwâku, the son of Manu, in the groves of Kalâpa: 'Those of our descendants shall follow a righteous path, who shall reverently present us with cakes at Gayâ. May he be born in our race who shall give us, on the thirteenth of Bhâdrapada and Mâgha, milk, honey, and clarified butter." (Wilson's Works vol. viii., pp. 170 and 197.) As pointed out by the editor, the phrase "for a twelvemonth" is in the Sanskrit text represented by *varshâmaghâ;* and the phrase "on the thirteenth of Bhâdrapada and Mâgha" by *trayodas'îm ...... varshâsu cha maghâsu cha.* But the former being rendered by S'rîratnagarbha: *aparapakshamaghâtrayodas'î*, and the latter: *varshâsu, bhâdrapade, maghânakshatre trayodas'îm*, it would be better to substitute for them: "on the 13th day of the dark fortnight of the month Bhâdra, which is under the asterism Maghâ."— The sanctity of this day and its appropriateness for the performance of the S'râddha already result from Manu, III., 273 and 274, where the *same* expression— *trayodas'îm.........varshâsu cha maghâsu cha*' occurs, and is interpreted by Kullûka to v. 273: *varshâkâle maghâtrayodas'yâm.* and to v. 274 *bhâdrakr'ishn'atrayodas'î;* also from *Yâjnavalkya*, I., v. 260: where the words *varshâtrayodas'yâm maghâsu* are explained in the same manner by Vijnânes'vara: *bhâdrapadakr'ishn'atrayodas'yâm maghâyuktâyâm.*—Compare also Sir W. Jones. on the lunar year of the Hindus, As. Res., vol. iii. p. 292. Besides these verses, other quotations relating to the same subject, from *S'ankha*, *S'âtâtapa*, and others, occur in Jîmût., III., 1, 18, in Raghunandana's Tithitattva (Calc. ed. 1834, vol. i. pp. 75, 160), in the Nirnayasindhu (II., fol. 42 *a*, *b*), Dharmas. (II., fol. 31 *b*.), &c., which also show that each member of a family, whether divided or undivided, must for himself perform this particular S'râddha.

* This date is given by the author himself at the end of his work, in the words: vasu (= 8) ritu (= 6) ritu (= 6) bhû (1) *i.e.* 1668 of the era of Vikramâditya.

† Ed. Bombay (1857) III. B., fol. 65 *a*, ll. 4 ff.

"The *Pr'ithvîchandrodaya* quotes these words of *Marîchi:* 'If there are many sons of a father who live together, all that is done with the undivided (family-) property, by the eldest, the rest consenting, must be (considered as) done by all of them.' These words mean that, though the eldest is the agent, all of them share in the result (of his acts). Therefore such religious rules, as the observance of chastity, &c., must be kept by every one of them, since they consecrate the persons who obtain the result. And this applies also to re-united members of a family, on account of the analogy (that exists between them and members of a united family).*

The *Mitâkshara* quotes these words of *Nârada:* 'The religious duty of unseparated brethren is single; when partition has been made, even the religious duties become separate for each of them.'† *Vr'ihaspati* also says: 'Of members of a family who live (together and) cook (their food) in common, the sacraments of the manes, gods and twice-born should be single; of those who are divided, they should be performed in each house separately.'‡ Though in this last text, no exception being mentioned, the prohibition of a separate performance (of religious acts) in an undivided family would also (seem to) obtain for such acts as the reading of the Vedas, the Sandhyâ devotion and the like, it (nevertheless) merely relates to the performance of the S'râddha, Vais'vadeva and the ceremonies which can be effected only by (spending some of the

* This passage also occurs in the same chapter, fol. 8 *b*, ll. 11 ff.

† Mit. ch. ii., sec. xii., § 3.—The same quotation also occurs in the *Vîramitrodaya*, Calc. ed., p. 169 *b*, 223 *a*; the *Vivâdachintâman'i* (ed. Calc. 1837), p. 162 (Colebrooke's translation of this passage in the Mit., and of Tagore p. 311 in the Viv. materially differ from one another); in the *Smr'itichandrikâ* (Calc. 1107) p. 8, *Vyavahâramayûkha*, ch. iv., sec. vii., § 28 (Borradaile's translation being the same as Colebrooke's), and in other Digests.

‡ This quotation also occurs in the *Vivâdach.*, p. 125 (Tagore, p. 227); *Vîramitrodaya*, f. 172 *a*, 222 *b*; *Kullûka* to *Manu*, IX, 111; *Dâyakaumudî* (Calc. 1827), ff. 28; *Smr'itichandrikâ*, p. 8; &c.

family) property; for such property having more than one owner, one (member of the family alone) would not be entitled to spend it. All such acts, however, as may be done without (spending any) property, *e. g.* muttering prayers, fasting, the Sandhyâ devotion, reading the Vedas and Purân'as, whether such acts recur at regular periods, or are occasional, or (purely) voluntary, each member is competent to perform separately (for himself). For there being no expenditure of property, no consent (of the rest) is required; and consequently the words (before quoted) 'with the undivided (family-) property' cannot apply to such acts. And this conclusion also results from the following text of *Âs'valâyana* as quoted in the *Prayogapârijâta:* 'Amongst twice-born men who cook (their food) in common there should always be separate the sacrament (or reading) of the Vedas, the Agnihotra, the worship of the gods, and the Sandhyâ devotion.' (In this passage) Agnihotra signifies such ceremonies of regular recurrence, enjoined by vedic or traditional works, as are performed with fire. For (the right of each member of a family to fulfil) these duties (separately) is logically analogous to the right acquired by the consent of the rest. The S'râddha of the father, and other acts of regular recurrence which have the same consequence (for all the members of a family) a single (member) is entitled to perform even without the consent of the rest; for it is said:* 'Even a single (member) of a family may conclude a donation, mortgage, or sale, of immovable property, during a season of distress, for the sake of the family, and especially for pious purposes.' 'For pious purposes,' means, according to Vijnânes'vara,† for the performance of indispensable duties, viz. the S'râddha of the father, or the like.

"But some maintain that even of members of an undivided family, if

* By *Vr'ihaspati,* according to the Ratnâkara (as quoted by Colebrooke) on the *Mit.,* ch. i., sec. i., § 28. Comp. also the *Vîram.,* f. 181 *a*; *Vivâdach.,* p. 161.

† Mit., ch. i., sec. i., § 29.

they cook (their food) separately, and if they stay in different countries, each has to perform separately (for himself) the S'râddhas on the day of new-moon and the annual S'râddhas; for *Hârîta* has said: 'If undivided brethren cook their food separately, each of them should also perform separately the Vais'vadeva and the other S'râddhas'; and *Yama:* 'If a son who is not separated (from the family) stays in a foreign country, he should perform (for himself) separately the S'râddha of the father on the anniversary of his death, and the S'râddha on the day of new-moon.'

"If (the drift of) these texts is properly considered, their sense (will be found to be) this: Of the five great (daily) sacraments, the eldest should with the consent of the other (members) of the family perform the sacraments of the gods, created beings, manes and men; for also *Vyâsa* has said: 'Food should never be eaten without previously making a sacrificial offering and presenting a first (portion) of it (to a Brâhman); amongst members of an undivided or re-united family what is done even by a single (member) *is* done (by all).' But if one's food has been prepared without the eldest (member) having performed the Vais'vadeva, he may eat it after having silently thrown some of it into the fire. For, where treating of the rights of members of an undivided family the *Pr'ithvîchandrodaya* quotes this passage from *Gobhila:* 'Whose food in the family is first ready, he may eat it after having put a certain portion of it into the fire, and given a first (portion) of it to a Brâhman.' Again, *Ás'valâyana* mentions the ceremonies which (members of a divided family) should perform separately when they cook their food separately; and also separately when they cook it in common; (his words are):* 'Of members even of a divided family, if they live (together and) cook (their food) in common, one, the master (of the

* Compare the same passage in the subsequent extract from the Vyavahâra-mayûkha; p. 205, ll. 6 ff.

household), should perform the four (daily) sacraments which (in the order of the five*) are preceded by the sacrament of speech. But men of the twice-born classes, whether members of an undivided or a divided family, if they cook (their food) separately, should, previous to taking it, each separately perform these sacraments day by day.' The sacrament of the Veda, the Sandhyâ devotion, bathing, the sacrament of the manes, and the like ceremonies are for the reason stated, performed separately (by each member); but on account of the two texts quoted, the worship of the gods either in common (by one) or separately (by each member); the S'râddhas on the day of new moon, at eclipses, &c., by one member only; the S'râddha at holy places, and similar S'râddhas by one only, if all the members of the undivided family happen to be together (in the place), but separately (by each member), if they happen to be in different places. And so likewise the S'râddha which is performed at Gayâ. For *Hemâdri* quotes this passage from the *Kûrma-Purân'a:* 'Many well conducted and excellent sons must be wished for; (for) if one of their number goes to Gayâ, we are saved by him, and he enters upon the highest path.'†

"As regards voluntary acts, such as sacrificial offerings connected with the making of gifts, and the like, the right of performing them depends on the assent of the other (members of the family); that of muttering prayers and performing similar acts which entail no expenditure of property exists without (such) assent. *Aparârka* quotes these words of *Pait'hînasi*. 'The annual and similar S'râddhas should be performed separately by each member of a divided family; but if performed by one member of an undivided family, it is as good as if

* See p. 191, ll. 1 ff.

† The first portion of this quotation ('many' to 'Gayâ') occurs with some variation in the Râmâyan'a (ed. Bombay, 1861), II. 107, v. 13; and is quoted also by several treatises on adoption, the Dattakakaumudî, Dattakasiddhântamanjarî, &c.

they were performed by all of them.' That the monthly S'râddhas, which precede the annual S'râddha, must be performed conjointly (by the whole family), *Laghu-Harîta* has declared in these words; 'The sixteen S'râddhas, which end with the Sapin'd'ana, sons should not perform (each of them) separately; nor ever, even when divided in property.' The Sapin'd'ana here implies a monthly S'râddha; for this results from the words of *Vyâsa*: 'After the year (following the death of the father) the eldest (son) should perform the S'râddha before the assembled family; but after the Sapin'd'ana (has been accomplished) each son should perform it separately.' And *Us'anas* says: 'The 'new' *S'râddha*,* the Sapin'd'ana, and the sixteen S'râddhas should be performed by one member of the family only, even if the latter is divided in property; but the S'râddha on the 13th day of the dark fortnight of Bhâdra, which is under the asterism Maghâ† should be performed separately by each member even of an undivided family'; as has been already mentioned.‡ But when *V'riddha-Vasisht'ha* says, 'the monthly S'râddha, the ceremony of setting a bull free, and the Sapin'd'ana should be performed by the eldest, as well as the first annual S'râddha',—his injunction is without authority. In the Paris'isht'ha of the R'igveda ritual (it is said that members of a family) should perform the 'new' S'râddha conjointly."

With these extracts from the Dharmasindhusâra and its predecessor, the Nirn'ayasindhu, it will now be expedient to compare the law on this matter as laid down by the principal authority of the Mahrattas, the *Vyavahâramayûkha*. It is contained in the following passage.§

* The 'new' S'râddha (navas'râddha) is the collective name of the ceremonies which begin on the first day after a death, and end on the tenth (comp. Dharmas. III. B., fol. 7 *b*, 1, 9).

† *Maghâtrayodas'î;* see † of page 197.

‡ Viz. III. B., f. 8 *b*, and f. 9 *a*, where the same quotations from *Laghu-Harîta* and *Us'anas* occurs.

§ Ch. iv., sec. vii., § 28–§ 33. Consistently with the opinion expressed at p. 182,

"*Nârada* says:* 'The religious duty of unseparated brethren is single; when partition has been made, even the religious duties become separated for each of them.' Here the term 'unseparated' is intended to denote the chief topic (treated of), whilst 'brethren,' on account of its (merely) qualifying the former, is not to be taken in its literal sense. Therefore in an unseparated family, even if it consists of a father, grandfather, son, son's son, paternal uncle, brother, brother's son or other (relatives), their religious duty is single.

"Here again, though conjointness of an act, in regard to its various stages, follows as a logical consequence if there is sameness of place, time, agency, and so on, an express text would cause such conjointness to cease, if the agency is not the same, though (it is) that of members of an undivided family. Hence all those religious duties, enjoined by vedic and traditional works, which are fulfilled by means of fire, even of unseparated (brethren) are separate for each (of them), since they are different according as different kinds of fire would be connected (with the ceremony). Even so the S'râddha of the paternal uncle, brother's son, &c., at the day of new moon and other (seasons) is separate by reason of the separation of the deified person (from the *pârvan'a* rite); but the S'râddha of brothers (dying) without (maintenance of) a sacred fire is performed by one and the same act, because all the deified persons are conjoint. Again, by residence abroad and the like (causes), there being a difference in the places (where members of a family live, the S'râddhas are to be performed) separately (by each member); the ceremonies also performed with fire are separate for those who maintain a sacred fire. But the worship of the household deities, the Vais'vadeva and similar ceremonies are performed (conjointly) by one and the same

in the translation that follows, as much as possible has been retained of Borradaile's version; several portions of the latter, however, had necessarily to be altered, as not correctly rendering the sense of the original.

* See p. 199, ll. 11 ff.

act. Hence *S'âkala* says: 'Of those who live (together and) cook (their food) in common, there is but one worshipping of the deity in the house, and but one Vais'vadeva; in a family of divided brethren these acts are performed in each house separately.'

"As for the text, however, of Âs'valâyana, as quoted in the Pârijâta, which says: 'Of members even of a divided family, if they live (together and) cook (their food) in common, one, the master (of the household), should perform the four (daily) sacraments, which (in the order of the five) are preceded by the sacrament of speech; but men of the twice-born classes whether members of an undivided or a divided family, if they cook (their food) separately, should, previous to taking it, each separately perform these sacraments day by day';*—this text has reference to members of a re-united family; for that such is its import, follows from the words 'of members even of a divided family, if they live (together and) cook (their food) in common,' and from the words 'whether members of an undivided or a divided family.'

"Therefore if there be a separate cooking of food, as is sometimes the case, amongst members of a re-united family, their great (daily) sacraments are separate. 'Sacrament of speech' is 'the sacrament (*i.e.* the reading) of the Veda.' The phrase 'those (sacraments) which are preceded by the sacrament of speech' is represented (in Sanskrit) by (one word which is) a Bahuvrîhi (or possessive) compound of the class where the quality expressed by it (as the predicate of something else) is not intended for *the* (*i.e.* the essential) quality (of the latter); for were this compound meant to convey such an (essential) quality, the words 'preceded by the sacrament of speech' would yield no sense, since there would then be no cause for excluding the first (sacrament); whereas it logically follows that the four (sacraments only) are

* See p. 201, ll. 27 ff.

here meant.* Hence the sacrament of the Veda should be performed separately (by each member of the family). But (after all) these two texts are not much respected by the learned.

"As regards, however, the following sentences in the *Dharma-pravr'itti:*

'Sons unseparated must (conjointly) celebrate one anniversary S'râddha for both parents; if they be in different countries they must

* The grammatical observation in this passage, relating to Bahuvrîhi compounds, is an allusion to a *paribhâshâ* or interpretation-rule which occurs in *Patanjali's Mahâbhâshya* on *Pân'ini*, I., 1, 27 (viz. the par. *bahuvrîhau tadgun'a-sam'vijnânam api;* on which Nâgojibhat't'a in the *Paribhâshendus'ekhara* observes that, on account of the word *api*, it also implies *atadgun'asam'vijnânam*). The drift of this *paribhâshâ*, as Patanjali explains it, is to show that Bahuvrîhi compounds (in English comparable to adjective compounds like lightfoot—*i. e.* one who possesses light feet,—or blue eye-d, &c.) are of two kinds, the one expressing a quality or an attribute which is essential, and the other expressing a quality or an attribute which is not essential, to the subject so predicated by the compound. Thus, as Patanjali illustrates, if you say: 'there march the priests having red turbans on, the Bahuvrîhi *lohitoshn'îshâh'* 'having red turbans on' implies here an essential quality of the priests, since this quality cannot be disconnected from their appearance as they march. But if you say: 'bring hither the man who possesses brindled cows (*chitragu*),' you want the man to be brought, but not his cows; hence the quality of 'possessing brindled cows' would in this case be disconnected from the appearance of the man, and therefore would not be essential to it. In the first instance the quality expressed by the compound was the characteristic feature, in the second it is merely the descriptive mark, of the subjeet predicated by it; and this, as *Nâgojî* in his commentary observes, depends on the sense. The application, then, regarding the compound *vâgyajnapûrvaka*, 'preceded by the sacrament of speech,' which our text makes of this paribhâshâ is that if this predicate of the 'four sacraments' spoken of had been considered by the writer as *essential* to them, the four sacraments would have been represented by him as accompanied and headed by 'the sacrament of speech'—which would be nonsense. If, however, this predicate was understood by him as being merely a descriptive one, the sense would be, as it should be, that the four sacraments are those which in their usual order come after the sacrament of speech, but are not accompanied by it.

(each of them) separately perform the S'râddha on the day of new moon and the monthly S'râddhas. If they go to (reside in) different villages, unseparated brethren should always (each of them) separately perform the S'râddha on the day of new moon and the monthly S'râddhas of both parents. When unseparated, but residing in different villages, each living upon the wealth acquired by himself, these brothers should celebrate the Pârvan'a-S'râddha separately;'

"And as regards the following passage in the *Smr'itisamuchchaya*;

'The Vais'vadeva, the anniversary S'râddha, as well as the Mahâlaya rite, in case the members of a family reside in different countries, are to be celebrated separately (by each of them), and in like manner the S'râddha on the day of new moon,'—

"These (two) texts, some say, have reference to members of a re-united family residing in different countries. But the fact is that they have no authority.

"Or, to sum up: if there be sameness of place, time, agency and so on, conjointness (in the performance of the act) follows as a matter of logical reasoning. If the agency is not the same, such conjointness (only exists if it) is established by an express text. If the place is not the same, some base (the rule concerning) the separate performance of S'râddhas and other ceremonies on circumstantial reasoning, since in such a case there is neither a logical necessity nor an express text (which would establish conjointness)."

Even from these few extracts it will be seen that commensality or the reverse of it has not been regarded as a proof of either union or division of a family; for without any restriction whatever, as we find, members of a *united* family are spoken of as residing and 'cooking' apart from one another, and members of a *divided* family as living and messing together.

And I may add at once that I know of no Hindu law-authority which

distinctly declares that 'living or dining apart' is a legal *test* of partition. *Manu, Vyâsa,* and other lawgivers, it is true, sometimes say that sons and parents should 'live together,' but, in the first place, the words they use to this effect, do not imply an obligation; they merely convey a recommendation or permission; and secondly, their expression 'living together' does not intimate a particular mode of life which would be a *test* of union, but is used synonymously with 'union' in general.

Hence, when *Manu* says:* "Either let them thus live together, or let them live apart (*Kullûka: i.e.* let them separate), if they have a desire of performing religious duties, &c."—his words merely express the lawfulness of both union and separation, but not a criterion of either. Or, when *Vyâsa* writes, "It is lawful that brothers and their parents, if the latter are alive, should live together," the *Smriti-chandrikâ,* after quoting these words, adds: "even after the demise of the father brothers live together for the sake of increasing mutually their property; for *S'ankha* and *Likhita* have said, 'Let them willingly live together, for being in harmony and united they will become prosperous.'"† Here again, therefore, 'living together' does not imply a particular mode of domestic life, without which union could not exist, but simply a state of union in general as contrasted with a state of separation in general. And consequently, passages of this kind are not alleged by the Digests under the head of "*evidence of partition,*" but in the chapter treating of the *periods* of partition;—a distinction which, from a Hindu point of view, is very material.

There is indeed one text which might seem to imply that "*cooking apart*" (not living apart) *was* considered by a native authority as a sign

* IX., 111; in the Vyavahâra-Mâdhavîya quoted as a verse of *Prajâpati.* Compare also Jîmûtav. Dâyabh., I., 37.

† Ed. Calc., p. 8.

of partition, viz., a passage in Nârada's Dharmas'âstra,* for it occurs there under the head of "ascertainment of a contested partition," and being quoted in Jîmûtavâhana's Dâyabhâga under the same head, has been translated by Colebrooke thus:

"Gift and acceptance of gift, cattle, grain, house, land and attendants must be considered as distinct among separated brethren, as also *diet*, religious duties, income and expenditure."†

But, in consulting the explanation given by the best commentators of this passage, and in comparing it with the sense put upon it in other Digests, it will be found that instead of "as also diet, religious duties, income and expenditure," the translation should most probably run: "as also *the religious duties connected with the cooking* (of food), income and expenditure"—when the very omission of 'cooking apart' in this passage would strongly confirm the opinion just expressed.‡

* I. (India) O. MS. No. 1300, fol. 38, *b:* dânagrahan'apas'vannagr'ihakshetra-parigrahâh' vibhaktânâm pr'ithag jneyâh' pâkadharmâgamavyayâh'. [xiii., 38.

† XIV., § 7.—The italics of *diet* are mine.—In Colebrooke's "Digest of Hindu Law," vol. iii., p. 407 and p. 417, this passage is translated thus: "When co-heirs have made a partition (distribution) the acts of giving and receiving cattle, grain, houses, land, household establishments, dressing victuals, religious duties, income and expenses are to be considered as separate, and (conversely) as proofs of a partition;" whereupon Jagannâtha observes (p. 407): "'dressing victuals' [here means] for the service of guests and the like, and for the food of the family; 'religious duties' the aggregate of constant and occasional acts of religion." It will be seen, however, from the next note, that his interpretation of *pâkadharma* is not borne out by the principal commentators of Jîm. Dâyabh. and the other Digests.

‡ On the first part of the compound *pâkadharmâgamavyayâh'*, Achyutânanda, in Bharatachandras'iroman'i's edition of Jîmûtav. Dâyabh. (p. 357) comments: *pâkadharmâ vais'vadevadharmâdayah'*, when pâkadharma, therefore, would not be a Dvandva, but a Tatpurusha compound; and similarly *S'rîkr'ishn'at.:* (as also in the previous Calc. editions) *pâkadharmo vais'vadevâdikarma*, i.e., "religious duties connected with cooking, that is, the Vais'vadeva duties (or ceremonies), and similar ones;" *Râmabhadra* in the edition named merely comments on *dharma* (not on

It is to be presumed that on the strength of this passage,—as translated by Colebrooke,—Strange, Macnaghten, and other modern authors, even though rejecting non-commensality as a 'sign' of separation, allowed it a place amongst the different kinds of 'evidence of partition;'*

pâkadharma), viz., *dharmo daivapitrâdikarma;* but *daiva* is as frequently used synonymously with *vais'vadeva*, the meaning of his words would be: "the Vais'vadeva, the sacrament of the manes, and similar ceremonies;" when it becomes probable that the proper reading should be *pâkadharmo daiva°*, or that *dharma* is abbreviated by the commentator for *pâkadharma;* in the *Vîramitrodaya* also, (p. 223, *a*, l. 12) where the same passage of Nârada is quoted, *Mitramis'ra* explains (l. 14) *dharmo vais'vadevâdih'*, *ekapâkena vasatâm iti prâguktavachanât*, *i.e.*, "religious duty means the Vais'vadeva, and so on, on account of the previous quotation (from Nârada) which says: 'of those who live (together and) cook (in common) (the worship of the manes, gods and twice-born should be single, &c.);'" where *dharma* is therefore used in the sense of *pâkadharma*, and the 'sign' in question is not the 'cooking,' but the religious rites connected with the cooking. —Again, in the *Vivâdachintâman'i*, where the same passage occurs (p. 162) *Vâchaspatimis'ra* likewise takes pâkadharma for a Tatpurusha; viz., *pâkadharmah' pârvan'âdih'*, "the religious duties connected with cooking, *i.e.*, the Pârvan'a and other ceremonies." In the *Dâyakaumudî*, too (p. 278) *S'rîkr'ishn'at's* commentary on this passage, as already mentioned, is quoted and adopted by Râmajayatarkâlankâra. On the other hand, in the *Vyavahâramâdhavîya* and *Vyavahâramayûkha* (IV.. 7, § 34), instead of *pâkadharmâgama,°* the text reads *dânadharmâgama,°* when *Nîlakan't'ha* explains *dânadharmo lekhyâdih'*, "the duties connected with *gifts*, *i.e.* written deeds, and the like."—The word *grain*, which occurs in Colebrooke's translation, represents the Sanskrit *anna;* and lest any inference be drawn from it regarding 'diet,' or lest it be doubted that this is the proper sense of the word as here used, I may mention that the *Dâyakaumudî*, on the authority of the *Vivâdabhangârn'ava*, says: "*anna* here means 'the getting of grain,'" and adds: "but some say *anna* here means 'buying corn, grain, &c., for the sake of food (*annârtham*).'" But even for *anna*, the Vivâdach. has the v. l. *artha* and explains it with *arthotpâdana*, 'producing wealth.'—Whatever view, therefore, we may take of this passage, it is clear that the balance of probability is in favour of S'rîkr'ishn'atarkâlankâra's, Achyutânanda's, and Vâchaspatimis'ra's gloss, and that *Nârada* if he really wrote *pâkadharma°* and not *dânadharma*, did not make 'cooking,' but the religious duties connected with it, 'a sign of partition.'

* Macnaghten, for instance, in his 'Principles of Hindu Law' (Madras, 1865, 53, says: "It (viz. partition) cannot always be inferred from the manner in

but, with the aid of the printed texts and commentaries we now possess, there can be no doubt that we should not be justified in stating for certain, as the Bombay Digest does, that *according to Hindu authors*, living and dining apart is a *sign* of separation.*

But, though the extracts already adduced merely confirm the negative inference derivable from the ancient law authorities, that commensality, taken by itself, affords no legal evidence regarding the state of a family, they show us that a different view must be entertained of the value which some ceremonies at least possess for testing doubtful cases of this kind.

Some religious acts, as we see, must, according to all authorities, be performed separately by each member of a family, and others in common, whether the members of such a family live in a state of union or separation. Thus, the reading of the Vedas, muttering prayers, and in general all religious acts which entail no expenditure, must be performed separately by each member even of a united family ; on the other hand, the sixteen S'râddhas which occur during the first year after a father's death, must be performed in common,—that is, as a rule, by the eldest son on behalf of the whole family—even if the latter is a divided one. Hence the performance of acts or ceremonies like these is no criterion either way, whether of union or separation. Yet we find that if members of a united family 'cook' their food in common, they are bound to perform, conjointly, the four daily sacraments of the gods,

which the brethren live, as they may reside apparently in a state of union, and yet, in matters of property, each may be separate ; while, on the other hand, they may reside apart, and yet may be in a state of union with respect to property : though it undoubtedly is one among the presumptive proofs to which recourse may be had, in a case of uncertainty, to determine whether a family be united or separate in regard to acquisitions and property."—Similarly, 'Strange, Hindu Law,' vol. i., p. 229.

* See p 187, ll. 13 f.

manes, created beings and men, the anniversary S'râddha, the S'râddha on the day of new moon, and the S'râ'ddhas of this category, the Tîrtha-, Gayâ-, and S'râddhas of this nature, whilst, if messing apart or if separated, they would be bound to perform these rites separately, each for himself. The *Vais'vadeva* also, members of a separated family *must*, and members of a united family, if not messing together, *may* perform separately; but members of a united family, if messing together, *must* perform it conjointly. Hence, if it can be shown that relatives *mess together*, and yet perform all or any of these ceremonies *separately*, each for himself, it is clear that, on the ground of all authoritative texts, a case of division is made out.

Again, it is expressly enjoined that a voluntary religious ceremony entailing expenditure can be performed by a single member of a united family only on the condition that the rest of the family allow him to do so; and to this clause no restriction is attached regarding commensality or living apart. Hence if it can be shown that a person performed such a ceremony without any protest on the part of his relatives, yet without having obtained their consent, such evidence wonld prove that he was divided from them; or, conversely, if it can be shown that he asked and obtained the consent of his family to perform such a ceremony, proof is afforded that at that time he was a member of a united family.*

Some statements, therefore, of Sir T. Strange on this subject are liable to objection. For, though he was right in dividing the religious duties of a Hindu into such as are "indispensable," and others which

* How great the amount of evidence available on this purely religious ground is, can be fully ascertained only from the ritual works; but an inference to this end may be obtained from Colebrooke's Essays 'On the Religious Ceremonies of the Hindus,' and particularly from that relating to the S'râddha (Miscellaneous Essays, vol. i. pp. 123 ff.); also from H. H. Wilson's 'Religious Practices and Opinions of the Hindus' (Works, vol. ii.. pp. 40 ff.; edited by Dr. R. Rost).

"in their nature are voluntary,"* he was mistaken in assigning to the latter class "consecrations, the stated oblations at noon or evening with whatever else there may be of a similar kind, the performance or non-performance of which respects the individual merely." And he was likewise mistaken when he said that "the proof in question [viz. of partition] results from the separate solemnization of such [rites], the acquittal or neglect of which is attended with consequences beneficial, or otherwise, to the individual, in his capacity as housekeeper (gr'ihastha), or master of a family, the third and most important order among the Hindoos; of this kind are among others, the five great sacraments, in favour of "the divine sages, the manes, the gods, the spirits, and guests."† For we have seen that each member even of a united family must for himself perform several such ceremonies if the members of that family 'cook' apart from one another. And when he added, "Still such separate performance is not conclusive; it is a circumstance merely,"—we must point to the cases above mentioned, in which it *is* conclusive, provided the members of a family mess together. Again, exception must also be taken to the remark which the same learned author appended to a Pandit's answer touching the same question.‡ "Had the division been doubtful," he said, "then certainly the joint performance of the ceremonies would be a conclusion against it; a conclusion merely, however; or, as it has been appositely called in another case, 'a token' (*adyuharana*, I suppose, in the original) not a proof." For, one of the ceremonies here alluded to is "the annual ceremony for a father," and the joint performance of such a ceremony, as we have seen, can only take place in a united family. The usual words for 'token,' moreover, from which he inferred that it implied

* Hindu Law (1830), vol. i., pp. 227 ff.

† Those explained in note * of p. 191 are here meant.

‡ Hindu Law, vol. ii., p. 392.

a conclusion only, are in Sanskrit *chihna* and *lakshan'a*, and each is often used in the sense of "characteristic or essential mark," when it is tantamount to proof.

The Editors of the Digest, however, not merely repeat, as we have seen, the general and, on account of its generality, objectionable statement of Strange, but after the words above quoted* add: "In the present condition of Hindu society, the performance of all religious rites has become so lax and irregular as to afford no safe ground for inference." I do not know on what authority this sweeping assertion is made, for the Editors do not at all indicate the source whence it has been derived. Hitherto the most reliable accounts of the present religious condition of India seem to lead to the conclusion, supported also by the writings of Colebrooke, Wilson, Haug, and others, that there is still in the country a very large proportion of the community which very tenaciously clings to what it considers its orthodox faith, and that this community is extremely jealous of allowing any European to pry into its devotions and to become acquainted with the detail of them. Nor is it clear what the Editors call 'lax and irregular;' for compared to the vedic ritual, for instance, that taught by the Purân'as may be so qualified, and judged by the standard of the latter, doubtless more recent ceremonies may likewise be thus termed. A statement so vague and general is in reality therefore meaningless, for it neither specifies the ceremonies to which it relates, nor the period or the standard by which to obtain a medium of comparison between the present and past. Yet even if the Editors had afforded us the information required, and if their statement concerning the quality of the actual worship of the Hindus

* P. xiv. "The separate performance of the Vais'vadeva sacrifice, of S'râddhas and other religious rites, is still less conclusive. At Dig. chapter iv., Q. 4, infra, a passage of Bhat't' ojîdîkshita is quoted, according to which coparceners, living apart, may or may not perform the Vais'vadeva each for himself, and, in the present condition of Hindu society, &c." See p. 187, ll. 8 ff.

were in some sense correct, it still appears that the conclusion would not be borne out by it. For in so far as the Hindu law of inheritance appeals to evidence based on religious grounds, it is quite immaterial whether the detail in the performance of this or any other ceremony concerned by it, agrees with the teaching of the ancient or mediæval, or even modern ritual—provided such a performance is held, rightly or wrongly, to be in the spirit of the orthodox faith. Whether, therefore, the S'râddhas or Vais'vadeva, for instance, are now performed in strict accordance with the ritual relied upon by Colebrooke in his 'Essay on the Religious Ceremonies of the Hindus,' or not, is for *legal* purposes absolutely irrelevant, so long as the popular mind still believes that the S'râddha benefits the soul of the deceased relative, or that the Vais'vadeva removes the sins which a man may have committed in preparing his daily meals. And that this belief no longer exists, the Editors would still have to prove. It is certain, moreover, that the Law Courts of the Bombay Presidency and the Pandits can entertain no doubts in this respect, for otherwise it would be unintelligible why in suits relating to inheritance, the judges should address questions to the Pandits about the performance of S'râddha and other rites, and that the Pandits should strengthen their replies by a reference to their doctrinal works; and even the Bombay Digest reports three instances, at least, of such interrogatories, at pp. 48, 57, and 58. It would be a mistake, therefore, on the part of an Indian judge were he to adopt the inference suggested to him by the Bombay Digest that no performance of any religious ceremony whatever can afford conclusive evidence regarding the union or division of a Hindu family, and in consequence, that henceforth he may dispense with a study of the native authoritative works concerned in this matter. Even the few data here collected, by way of illustration, will sufficiently show that in doubtful cases these works will still be his safest guide.

ARTICLE VI.

OPINIONS ON PRIVY COUNCIL LAW CASES.

A.

ON THE CASE BETWEEN NEELKISTO DEB BURMONO AND BEERCHUNDER THAKOOR.

1. It is a maxim of Hindu law, admitted by all the schools, that there are four sources of Hindu law, viz., *'Sruti* (*i.e.* the Vedas), *Smr'iti* (*i.e.* the Dharma-'Sâstras, or the codes of law by Manu, Yâjnavalkya, and other *ancient* law-givers), *custom*, and (in all indifferent cases) "*self-satisfaction*" (*i.e.* one's own pleasure); but where these are at variance with one another, that weight and authority attaches to them according to their precedence; *i.e.* that where they clash, *'Sruti* would supersede *Smr'iti*, either of these *custom*, and either of the former "self-satisfaction."*

* *Manu* II., 6.—"The roots of law are the whole Veda, the Smr'iti and moral practices of such as perfectly understand it, the (immemorial) customs of good men, and (in cases quite indifferent) self-satisfaction."

Manu II., 12.—"The scripture (*i.e.* S'ruti or Vedas), the codes of law (Smr'iti), approved usage, and (in all indifferent cases) self-satisfaction, the wise have openly declared to be the quadruple description of the juridical system."

Yâjnavalkya, I., 7.—"The S'ruti, the Smr'iti, the practice of good men, what seems good to one's self, and a desire maturely considered, these are declared to be the root of law." [The Sanskrit words for the first three sources in Yâjnavalkya are the same as in Manu. The difference in translation is therefore merely

2. Hence if the *kulâchâr* or custom which prevailed or prevails in the family of the Mahârâjas of Tipperah regarding the succession of an heir to the throne and possessions of Tipperah, is at variance with the Hindu law as current in Bengal, either this custom is devoid of authority, or the law as current in Bengal is not the law by which the succession in the royal family of Tipperah has to be regulated. And that the latter contingency is possible, again results from the fact that the law regarding succession as current in Bengal, is not in itself *Smr'iti*, but only a commentary on Smr'iti (viz. the Dàyabhâga of Jîmûtavâhana), and that there are other commentaries on the same Smr'iti, which in essential points differ from that commentary, and actually are the law prevailing in other parts of India (*e.g.* the Mitâksharâ, the Vyavahâra-Mayûkha, the Smr'itichandrikâ, &c.)

3. That the Tipperah Kulâchâr or custom *is* materially at variance with the Hindu law of succession as current in Bengal, follows from the fact that the former *excludes* from succession the *widow*, and that it can give preference to a brother or other member of the family before the son of a deceased king.*

4. Since, however, the exclusion of the widow from the Tipperah succession, and the precedence of a brother or other relative before a

accidental, that of Manu belonging to Sir W. Jones, and that of Yâjnavalkya to Röer.]

The Mitâksharâ on this passage from Yâjnavalkya explains that, where they clash, they have a right and authority according to the order in which they are enumerated.

* Exclusion of the widow: Record, p. 406, line 22; p. 139, line 48.

" of sons in favour of brothers: Record, p. 407, line 47.

" of sons in favour of a nephew: Record, p. 135, line 30.

" of a son in favour of the eldest member of the family: Record, p. 134, lines 54, 55.

" of a son in favour of a brother: Record, p. 290, line 36.

" of a son in favour of a nephew; Record, p. 31, line 13.

son, have been declared *legal* and *valid* by former decisions of the Courts,* it results that the law of Bengal cannot be invoked in the present case to settle the respective claims of the Respondent and Appellant.

5. It remains, therefore, to be seen whether the Tipperah Kulâchâr, and if so to what extent, is in conformity with a higher authority than the law of Bengal, and what that authority is.

6. The highest law authority of India, that from which no other law-code is supposed to differ, is the code of *Manu*. That portion of this code which relates to inheritance, treats of inheritance under a twofold aspect, viz., inheritance as succession to an *undivided* estate, and inheritance as succession to family property when *division* had taken place. The law relating to the former category of inheritance is extremely simple, and scarcely admitting of litigation: that relating to the latter is complex.

Hence other law-codes, all of which admit the supreme authority of Manu, *e.g. Yâjnavalkya*, who is the primary source of the present law of succession in India, passes entirely over in silence the first category of succession,† and merely deals with the second category, which is a fruitful ground for litigation.

And it is only the digests or commentaries, as that of Jîmûtavâhana or the Mitâksharâ of Vijnânes'wara, which here and there endeavour to bring in the question of non-division,‡ though they properly only have to

* The same as above; especially in the case of the widow; *Record*, p. 406, line 22.

† See the beginning of Colebrooke's translation of the Mitâksharâ, p. 241 (2nd ed., p. 364):—"The partition of heritage is now propounded by the sage of holiness," &c. (which words belong to the author ot the Mitâksharâ), and the beginning of *Yâjnavalkya's* chapter on inheritance: *ib.*, p. 258, last line but one (2nd ed., p. 377):—"When the father makes a partition," &c.

‡ Thus the quotations from Manu given in the next notes occur in Jîmûta-

deal with questions of division. And on that ground, too, they in consequence arrive at sometimes opposite conclusions. Thus, since the chapter of Yâjnavalkya—as translated by Colebrooke—strictly speaking, only relates to *division* ("Dâya-vibhâga," or "Dâya-Bhâga," meaning division of inheritance), the Mitâksharâ concludes, that the *widow* where mentioned by Yâjnavalkya, can only mean the *widow* of a *divided* husband. whereas the Dâya-Bhâga of Jîmûtavâhana obviously striving to fill up what may appear as a defect in Yâjnavalkya, concludes that *widow* also means the widow of an *undivided* husband. But the very possibility of such a fundamental difference in the interpretation of the same text, proves that Yâjnavalkya's text did not deal with the succession to an *undivided* estate as a separate topic, and that those—like the Mahârâjas of Tipperah—who do not consider the *widow* as entitled to succeed, resort for the law regulating the succession to an *undivided* estate, not to Yâjnavalkya and the Dâya Bhâga of Jîmûtavâhana, as current in Bengal, but to the code of *Manu.*

7. Regarding the succession to an *undivided* estate (and it is admitted on all hands that the throne and the possessions of a Mahârâja of Tipperah are in the nature of an undivided and indivisible property), the code of *Manu** rules that after the death of a father "the *eldest*

vâhana (Colebrooke's "Two Treatises," pp, 16, 17, 2nd ed., p. 193), and the "Mitâksharâ" (Colebrooke, p. 263, 2nd ed., p. 381), not to explain the law of succession to *undivided* property, but merely to prove the *period* at which, according to Manu, *division* could take place.

* Manu IX., 104 (quoted in *Colebrooke*, p. 8, 2nd ed., p. 186:)—

"After the death of the father and mother, the brethren being assembled "must divide equally the paternal estate, for they have not power over it while "their parents live."

IX., 105 (quoted in *Colebrooke*, p. 16, 2nd ed., p. 193:)—

"But the eldest ['brother' is not in the text] may take the patrimony "entire, and the rest may live under him as under their father."

IX., 185 (quoted in Colebrooke, pp. 199 and 346, 2nd ed., pp. 334 and 443 *does not apply* here:—

[brother] takes the entire patrimony," and that the "rest of the family depend on him for their maintenance, as on a father."

8. The word for "*eldest*" in Manu is *jyesht'ha;* but as "*jyesht'ha*" has a double meaning, viz., that of "*eldest*" and "*best*," all the commentators —also borne out by another passage of Manu—agree in deciding, that the "*eldest*" must also imply the "*best;*" hence, if the "eldest" is an unworthy person, or otherwise unfit to manage the family property, even the "*youngest*" may be declared "jyesht'ha," that is, any other member of the family, if considered worthier than the eldest. But in such a case they also stipulate that the *consent of all the members of the family* is required to exclude the eldest, and to invest another member of the family with the right of succession and the privileges pertaining to it.*

"Of him who leaves no son, the father shall take the inheritance, or the "brothers."

For this last paragraph can only refer to a divided family where each member has property of his own, as *brothers* occur in the plural, and as the son could never be in possession of the *ancestral* estate if the father were still alive.

* Jîmûtavâhana, where showing that non-division can only take place if ALL the members of the family consent, quotes Manu, IX., 105, and comments on it as follows (Colebrooke, p. 16; 2nd ed., p. 193:)—

"Is not the eldest son alone entitled to the estate on the demise of the "co-heirs, and not the rest of the brethren? for Manu says:—'The eldest "'brother may take the patrimony entire, and the rest may live under him, as "'under their father.' And here 'eldest' intends him who rescues his father "from the hell called Put, and not the *senior survivor.* 'By the eldest, as soon "'as born, a man becomes father of male issue, and is exonerated from debt to "'his ancestors; such a son, therefore, is entitled to take the heritage. That "'son alone on whom he devolves his debt, and through whom he tasted "'immortality, was begotten from a sense of duty; others are considered as "'begotten from love or pleasure.'"

"Not so; for the right of the eldest [to take charge of the whole] is pronounced "dependent on the will of the rest. Thus Nârada says:—'Let the eldest brother, "like a father, support all the others who are willing to live together without

They also rule—likewise on the authority of another passage from Manu—that if there are sons by different mothers, seniority belongs to birth, if the mothers are of the same caste; but that it belongs not to birth, but to rank, if the mothers are of different castes. Thus, if all the mothers are of the Kshattriya caste, the first-born son would be the eldest, even if he were the son of the youngest wife; but if there are three wives of the Vais'ya, or third caste, and one wife of the Kshattriya, or second caste, the son of the latter would be the "eldest (best)," though he may be younger than the sons by the Vais'yâ mothers.

9. It follows, therefore, that the right of succession to an *undivided* estate is in the first place a right by seniority—seniority also implying rank; that this right is forfeited only in consequence of unworthiness

"partition; or even the youngest brother, *if all assent*, and if he be capable of "business: capacity for business is the best rule in a family.' [Colebrooke, p. 17, 2nd ed., p. 194, translates this passage from Nârada thus:—'Let the eldest brother 'by consent support the rest, like a father, or let a younger brother who is capable 'do so; the prosperity of the family depends on ability.' This translation, however, is *not so correct* as that in Prasannakumâr Tagore's Vivâdachintâman'i, p. 227, from which the former is taken.] "By consent of all" (Jîmûtavâhana continues) "even the youngest brother being capable, may support the rest. Primogeniture is 'not a positive rule' [*i.e.* is not absolutely meant in the quoted passage from Manu]".

Manu, IX., 213 (quoted in Colebrooke, p. 294, 2nd ed., p. 404):—

"An eldest brother who from avarice shall defraud his younger brother, shall forfeit the honour of his primogeniture, be deprived of his additional share, and be chastised by the king."

This passage, though relating to division, shows that an "eldest" son can forfeit his primogeniture through unworthy conduct.

Kullûka, the celebrated commentator of Manu, also, where explaining Manu IX., 105 (quoted before) says:—"If the eldest is virtuous, then he is the eldest," and where commenting on Manu, IX., 109—": The eldest exalts the family or destroys it; the eldest is in this world the most respected, and the good never treat him with disdain," says:"The eldest in an undivided family, if he is virtuous, then he is the eldest, for on account of his virtuous conduct the younger brothers follow him; he exalts then the family, but if he is vicious he destroys it," &c.

or unfitness on the part of the person entitled to succeed; but that this forfeit must be the result of a unanimous decision taken by all the members of the family interested in the preservation of the estate.

10. The so-called custom of the royal family of Tipperah, as results from the Record, consisted in the following particulars:—

(*a*) The reigning Mahârâja designated, while alive, or could designate, his successor to the throne and the estates.

(*b*) The person so designated was called *Yuvarâja*, and his installation was performed with great solemnity.

(*c*) The person so installed was always a *male*, never a female or an infant, these being excluded on account of their "unfitness," and as is contended by the appellant, always the *eldest* member of the family; but the Respondent asserts that he was not always the eldest member, though he admits that such a *person* was never a female or an infant.

11. This custom agrees in all its particulars with the law of Manu as explained before. For, though Manu does not speak of the installation of a Yuvarâja, such a "*custom*"—the third source of Hindu law—would not be at variance with Manu or any other "*Smr'iti* or *S'ruti*." It is on the contrary borne out by precedents recorded in the *Mahâbhârata*, the *Râmâyańa* and the *Purâńas*, and therefore legal.* And even if the assertion of the Respondent were correct, the inference to be drawn from it would only be that the predecessors of the deceased Mahârâja chose a junior member of their family as their successor in preference to the eldest member, because the latter was deemed by them unworthy or unfit to succeed, and because their decision met with the unanimous consent of the rest of the family.

12. But the unanimous consent of the whole family is implied by the fact that the installation of a Yuvarâja is not a private, but a public

* See Goldstücker's "Sanskrit Dictionary" (vol. I.) pp. 275—285.

act; that it must take place in the presence of the whole family; and that its validity is subject to the performance of a number of ceremonies which are laid down with great detail by the Purân'as—the fundamental source of the present religion of the Hindus—and by works on astrology. The Record, moreover, shows that the installation of former Yuvarâjas of Tipperah conformed to this public and solemn character of the ceremony.

13. It has been asserted by the late Mahârâja, and the Respondent asserts, that the Mahârâjas of Tipperah chose, at their own pleasure and without any restriction, the Yuvarâja from amongst the members of their family. But, in the first place, their assertion is unproved; secondly, it could be proved only if they showed that the choice made by a previous Mahârâja did not meet with the unanimous consent of the rest of the family, but nevertheless was upheld; thirdly, even if they proved that such consent was wanting, the conclusion could only be, that such a choice was then illegal, since *custom* cannot supersede *Smr'iti.*

14. But it results, on the contrary, from the Record, that the late Mahârâja Essanchunder himself must not have looked upon his right of choosing a Yuvarâja as absolutely vested in his pleasure. For, when it appears that the Appellant was charged by the witnesses with having made a hostile and criminal attack on the possessions of the Tipperah family, it would seem that this charge, otherwise utterly irrelevant to the question of succession, was merely raised in order to establish his unworthiness to succeed. Had the witnesses been able to substantiate it, it would doubtless have gone far to show that the Mahârâja had grounds for declaring the "seniority" of the Appellant as forfeited. But the charge entirely failed; and it has not been shown that the Mahârâja, with the consent of his whole family, proclaimed the Appellant's unworthiness or unfitness to succeed.

15. It is not denied by the Respondent that the installation of a Yuvarâja required for its validity the performance in public of certain ceremonies, as laid down by the sacred books of the Hindus. But the evidence afforded by his witnesses shows, in the first place, that there is the strongest probability of his pretended Yuvarâjaship never having been solemnly celebrated at all; and, secondly, even if the late Mahârâja performed some ceremony in order to install him as Yuvarâja, that such a ceremony was devoid of the essential characteristics by which alone the title and rights of a Yuvarâja could be conferred on a non-senior member of the royal family.

16. This results from the following facts, as proved by the depositions of the Respondent's witnesses:—

(*a*) This pretended installation, as is stated by all his witnesses, took place on the same day when the late Mahârâja consecrated a new building. It is extremely unlikely, however, that two such ceremonies, so utterly different in their character, should be performed by any Hindu simultaneously, and the much more important ceremony actually as a mere appendage to the far inferior one.

(*b*) It is stated by all the witnesses of the Respondent that the late Mahârâja consecrated the new building which he was going to inhabit, on the 16*th S'râvana*, this being a lucky day for the performance of such a ceremony. And unquestionably the late Mahârâja, as every Hindu would, took care that, according to the astrological works, the day for the performance of such a ceremony *should* be a lucky one. These works also bear out the fact that the month of S'râvana would be a lucky time for the consecration of a new house. But the same works likewise say that the month of S'râvana is *not* one of those in which a Yuvarâja-ceremony should be performed. It becomes, therefore,

extremely improbable that a king so particular in conforming to the astrological rules, where the consecration of a new building was concerned, should have been quite indifferent to these rules when the proper time for the performance of a much more important ceremony, that of the installation of a Yuvarâja, nad to be chosen.

(*c*) It is stated by all the witnesses of the Respondent that the Yuvarâja-ceremony, which, as they assert, had been performed, did not come to the cognizance of all the members of the Mahârâja's family, and much less to that of the public at large. It was consequently deficient in that very characteristic which is its essential feature, in that publicity, which is also to imply the consent of the whole family to the choice made by the king.

(*d*) It is further stated by all the witnesses of the Respondent that the late Mahârâja for the first time designated the name of his successor on the very day when the installation of the latter, as is asserted, took place. But, according to all authorities, it is an essential feature of this ceremony that the person whose appointment as Yuvarâja was intended, should on the day preceding the public ceremony, hold a fast and undergo purification so as to make himself fit for the solemnity of the succeeding day. According to Hindu notions, it is therefore impossible that a proceeding as that described by the witnesses should be a valid ceremony of the installation of a Yuvarâja.

17. Hence: Since the law of the Dâyabhâga as current in Bengal does *not* apply to the Tipperah succession;

Since the latter is regulated by the highest law authority of the Hindus, the Code of Manu;

Since the custom of the Mahârâjas of Tipperah is in conformity with the law of Manu;

Since the Appellant is acknowledged by all the parties as the eldest *claiming* member of the present Tipperah family;

Since it has not been shown that by the late Mahârâja and the rest of his family he has been unanimously declared to be unworthy or unfit to succeed;

Since it is highly improbable that the Respondent ever was installed Juvarâja by the late Mahârâja;

And since the ceremony of his installation, if it ever took place, was, according to the deposition of the Respondent's witnesses, devoid of the essential characteristics which are required to make the Yuvarâja ceremony a legally valid ceremony,

my opinion is that the Appellant has a valid claim to succeed to the possessions of the late Mahârâja of Tipperah.

B.

ON THE QUESTION WHETHER THE LAW OF BENGAL FAVOURS OR DISCOUNTENANCES THE PRINCIPLE OF PERPETUITY AS APPLICABLE TO THE RIGHT OF INHERITANCE.

In the law of Bengal there occurs no distinct statement relating to the theory of perpetuity as applicable to the right of inheritance. But from the philosophical basis on which the law of Bengal rests, it must be inferred that it discountenances such a theory.

For, this basis is the Nyâya, and more especially that division of it called the Vais'eshika philosophy, and some discussions raised by the chief authorities of the Bengal school must therefore be understood in the light of that system of philosophy. This also results from the sameness of the philosophical terms used by both.*

* "The written law, whether it be *s'ruti* or *smr'iti*, direct revelation or tradition, is subject to the same rules of interpretation. Those rules are collected in the Mîmânsâ, which is a disquisition on proof and authority of precepts. It is considered as a branch of philosophy; and is properly the logic of the law."

"In the eastern part of India, viz. Bengal and Bahar, where the Vedas are less read, and the Mîmânsâ less studied than in the south, the dialectic philosophy, or Nyâya, is more consulted, and is there relied on for rules of reasoning and interpretation upon questions of law, as well as upon metaphysical topics."—Account by H. T. Colebrooke of the Hindu Schools of Law, in Strange's Hindu Law, vol. i., p. 316.

Now the Vais'eshika lays down the proposition that there are seven *padârthas*, or categories, under which all material objects (such as earth, water, &c.,) and all ideal existences (such as cause, effect, &c.) are comprised. Beside these, it maintains, there are none; and it rejects therefore any explanation, for instance, of cause and effect, which, instead of being evolved from any of these seven categories, would resort to the assumption of another principle not contained in them.

The following passage from the *Bhâshâ-Parichchheda*, one of the fundamental works of the Vais'eshika, together with its commentary as given in the *Siddhânta-Muktâvalî*, will corroborate this statement.*

Text.—" Substance, Quality, and in like manner Action, Genus, with Difference, and Concretion, and in like manner Non-existence, these seven are called the categories (*padârtha.*)"

Commentary.—" Thereupon [*i.e.* on its being laid down that the Categories are seven] the author of the *Upamâna-Chintâman'i* raises the doubt whether a right to be treated as separate categories does not belong to *Power* and *Resemblance*, seeing that these differ from all the seven Categories. ' How is it [he asks] that these [seven] alone are Categories when there is a separate categoric nature in Power, Resemblance, &c. ?'—To explain:—A burn is not produced by fire when attended by a gem [of the kind which is regarded as possessing the power to neutralize the operation of fire] or the like; but, by that devoid thereof, it is produced. In this case I infer that a cauterizing Power in the fire is destroyed by the gem or the like, and is reproduced by the removal of the gem, or the like, which acted as a neutralizer. So, too, Resemblance is a separate Category—for it is not included under any one of the [first] six Categories, seeing that [unlike any of these] it exists even in Genus—for we recognise Resemblance in the

* The translation is that by Dr. Ballantyne, in "the Bhâshâ-Parichchheda, and its commentary the Siddhânta-Muktâvalî," Calcutta, 1851, page 8, ff.

instance that, *as the generic nature of cows is eternal, so in like manner is that of horses also.* Further, it cannot fall within the Category of Non-existence:—because, that such a thing [as Resemblance] exists, is believed [by everyone.]

"But, if all this be asserted, it is not so—for, as regards the burning effect of the fire, &c., in the absence of the gem, &c., it is improper to postulate an endless (*ananta*) set of Powers, together with the previous Non-existence (*prâgabhâva*) and also the Annihilation thereof, when the result may be properly accounted for, either by the independent action [of the fire], or by assuming as the cause the absence of the [neutralizing] gem, &c. And you need not say, 'How then does burning take place when both the neutralizer is present and also a neutralizer of the [fire-neutralizing] gem?'—for, what I regard as the cause is the absence of the genus gem [or of all gems whatsoever], which implies the absence of [those gems that are] neutralizers.—Resemblance also is not another Category, but it consists in the possession of various characters belonging to any given thing, whilst being at the same time something other than the thing; as, for example, there is a resemblance to the Moon in a face, which being something not the Moon, yet possesses the pleasing character, &c., which the Moon possesses."

In other words, as regards the rejection of a category (*padârtha*) Power: since the independent action of fire is sufficient to account for the producing of a burn—according to the Vais'eshika, it would not be allowed in a special case to resort to an assumption of the non-existence of the action of fire and the subsequent annihilation of that non-existence, since this would be assuming causes which are remote, and arbitrarily creating "*endless*" (*ananta*) categories.

This reasoning, and in the very terms of the Vais'eshika, is applied by S'rîkr'ishn'a Tarkâlankâra, the great authority of the Bengal school, to the following passage of Jîmûtavâhana's Dâyabhâga (ch. 1, § 7) which says:—

"Nor can it be affirmed, that partition is the distribution to particular chattels, of a right vested in all the coheirs, through the sameness of their relation, over all the goods. For, relation, opposed by the co-existent claim of another relative, produces a right, figuratively implied by [the term] 'partition' (*vibhâgavyangya*),* to portions only of the estate: since it would be burdensome to infer the vestings and divestings† of rights to the whole of the paternal estate; and it would be useless, as there would not result a power of aliening at pleasure."

For, in regard to this passage, *S'rîkr'ishn'a Tarkâlankâra* argues as follows:—

"Now, if [you say]—'the co-existence of one relative, on account of the sameness [of the rights of all the relatives] being a bar to the proprietary right of another relative, none of them has a right to any portion [of the inheritance], since this bar exists—my answer is:

"Since property depending on relation and [the fact of] the right to such property having a previous Non-existence (*prâgabhâva*) are [notions] closely connected, the proprietary right of one relative bars the right to property depending on relation, when belonging to another relative. [For,] since you must admit that after division there is a proprietary right in a special portion [of the property], and since [from your admission it would follow that] this right had a previous Non-existence *prâgabhâva*), there is no incongruity [in my reply].

* Colebrooke's rendering of *vibhâgavyangya*, "determinable by partition," is less literal than that given above: "figuratively implied by [the term] partition."

† Vestings and divestings is in Sanskrit: *utpâda-vinâs'a;* lit., producings and annihilatings. In the Sanskrit text these words are part of the compound *utpâda-vinâs'a-kalpanâ-gauravât*, when it may be doubtful whether they are to be understood in the singular or plural number. Colebrooke rendered them in the singular, "*vesting and divesting*," but it results from the context, the discussion of the commentator, and his *express* statement that they must be understood in the plural; on account of the objection to "endlessness."

" He [viz. Jîmûtavâhana] shows that the coexistence of one relative sufficiently accounts for opposing [the claim of another relative] in the words ' Since it would be burdensome to infer the vestings, &c.' Their sense is this :—The collective sum of the proprietary rights is equal to the number of all the relatives concerned in the property left by a father, or other [relative]. [There would be] vestings and divestings of these [rights]. [But such an assumption would be burdensome, for considering that it would then be necessary to assume such " endless " (*ananta*) categories, [as a series of vestings and divestings] the assumption of opposition [of one right by another co-existent right] is more easy [*i. e.* less remote, and therefore the only one consistent with the notions of the Vais'eshika.]."

On the theory of perpetuity the right of an heir would not be derived from his relationship to the owner of the property who immediately predeceased him, but from the title conferred on him by the testamentary or other disposition of a remote ancestor. In such a case, then, the effect of inheritance, instead of being accounted for from an immediate cause, would depend on a remote cause, or a series of remote causes, and these the Vais'eshika would reject as belonging to the category of " endless powers."

In my opinion, therefore, it results from the alleged words of Jîmûtavâhana and S'rîkr'ishn'a-Tarkâlankâra that these authorities not only do not admit a mode of inheritance which would prevent the alienation on the part of the inheritor of the property inherited; but also do not recognise a title to inheritance which would be derived from a remote cause—such as the principle of perpetuity—the latter being contrary to the spirit and a proper construction of the Bengal law.

NOTE.

The Heritable right of Bundhoos, according to the Western School, by the late Honourable P. C. Tagore. See Preface, pages ii , iii., iv., and v.

" Hence these institutes of the sages, such as Menu, Yagnyavalkya, Ushana, Gautama, and others, confirmed as they are by the revealed authority, are held in high veneration by the general consent of the Hindu community of all ages. Ancient and modern commentators, compilers and other writers, could never presume to alter or amend them. But to provide for the wants and necessities of society in its progressive state, and to suit the constitution of the provinces, where their works were intended to be in operation, *the commentators have recorded constructions, made logical inferences*, and attempted explanations to make passages more intelligible, and reconcile the differences of opinion among the sages, preserving in essence the object and intent of the original texts.

Such are the restricted functions of the commentators and compilers from ancient times down to the present day, unlike the nations of Europe, governed by Parliaments and other national Assemblies, These alter, amend, or add to their ancient canons of inheritance. By the 22nd and 23rd Vic., Ch. 35, Sec. 90, the English Parliament made further alterations in the enactment of the 3rd and 4th William IV., Ch. 106, Sec. 20. As long as such a remedy exists, the nation can never suffer any inconvenience from omissions and obscurities of the old canons of inheritance. In the absence of this privilege, the compilers, commentators, and other writers of modern days, meet the wants and necessities of society, which is always progressive, *by supplying omissions by logical inference*, or by explaining the inconsistency of

any part of the law, but not without preserving the spirit and reason of the old law. The propriety of adopting so rational a method, after the examples of the commentators, &c., cannot be questioned. The wants and necessities of society are daily increasing, undergoing alterations, and developing new points for solution. If the privilege of supplying omissions, by the reason of the law, be not allowed, while the restriction on the enactment of new laws for altering, amending, or adding to the old law, remains in full force, society will remain unprovided with adequate rules."

ON THE ETYMOLOGY OF JECUR, STERCUS, ETC.

TRANSACTIONS OF THE PHILOLOGICAL SOCIETY FOR 1854.

There are few words the affinity of which is less doubtful, while the etymology is more obscure, than the words *jecur*, *ἧπαρ*, Sanskrit यकृत् (*yakr'it*), and the words *stercus*, *σκώρ*, Sanskrit शकृत् (*s'akr'it.*) The peculiar interest they convey, as an instance of the different products, borne by the same linguistic stem in its various branches, and the light they throw on some other words of a kindred formation, induce me to offer the following remarks as to their etymological meaning, and the apparent irregularity of their declension.

I do not dwell upon the linguistic identity which exists between the first letters of *jecur* and यकृत् (*yakr'it*) on the one side, and *ἧπαρ* on the other, since the mutual correspondence of the Sanskrit य् (*y*) with the Greek *spiritus asper* in the beginning of words, (for instance in यस् (*yas*), and ὅς), and that of the Sanskrit or Latin gutturals with the Greek labials, and *vice versâ*, (for instance in अश्व (*as'wa*), *equus*, ἵππος; पञ्चन् (*panchan*), *quinque*, πέντε), is so well established, that I need

merely remind you of the fact, and of the instances given by Bopp, Pott, Kuhn, and others, to be relieved from the necessity of further proof.

The phonetic diversities, however, between *stercus*, σκώρ, and शकृत् (*s'akr'it*), are of a more complicated kind, as the *t* in *stercus* cannot be explained as the result of any inter-linguistic law, nor the *s* in the same word and the σ in σκώρ, be held to be the regular representatives of the palatial श (*s'*) in शकृत् (*s'akr'it*), for the latter in Sanskrit almost invariably corresponds with a guttural sound in Latin and Greek; as, for instance, in श्वन् (*s'wan*), *can* (*-is*), κύ (*-ων*); शत (*s'ata*), *cent* (*-um*), (ἑ)κατ(*-όν*); विंशति (*vins'ati*), *viginti*, εἴκοσι, &c.

But even supposing that there were no phonetic difficulty in establishing the original identity of both sets of words, we should still be at a loss how to account for the diversity they show when their thematic form becomes a real word, in assuming the declension-suffixes of the genitive, dative, and other cases. *Jecur*, for instance, appears in the genitive, as *jecor*-is or *jecin*-or-is, ἧπαρ and σκώρ, as ἥπατ-ος, σκατ-ός, while यकृत् (*yakr'it*), and शकृत् (*s'akr'it*) become यकृतस् (*yakr'it-as*), or यक्नस् (*yak*(*a*)*n-as*) and शकृतस् (*s'akr'it-as*), or शक्नस् (*s'ak*(*a*)*n-as*). Or, in other words, *jecur* conceals the crude forms *jecor-* and *jecin-* (or, as a variety, *jocin-*); ἧπαρ, the crude form of ἡπαρτ-; यकृत् (*yakr'it*) the crude forms यकृत् (*yakr'it-*) and यकन् (*yakan-*); while those of *stercus*, σκώρ and शकृत् (*s'akr'it*) are *stercor-*, σκαρτ-, शकृत् (*s'akr'it-*) and शकन् (*s'akan-*).

If I attempt to give a solution of these irregularities, which, as we have seen, concern—1. the terminating letters of these words, *or*, *in*, *αρτ*, *r'it* and *an*; 2. the appearance of the *t* in *stercus*, and the *s* of that and σκώρ, as compared with the *s'* of शकृत् (*s'akr'it*); and 3. the diversity of crude forms represented by *jecur*, यकृत् (*yakr'it*) and शकृत् (*s'akr'it*)—I may consider it as conceded that the only way of dealing

with them is that of examining the etymological meaning of these words; and further, that the means we possess in Latin or Greek will not allow us to ascertain this meaning satisfactorily. I begin, therefore, with the Sanskrit words. And first, with शकृत् (*s'akr'it*), the general meaning of which is "*fæces*, excrements."

The native authorities derive it from the radical शक् (*s'ak*) "to be able," with the suffix ऋत् (*r'it*), or technically ऋतिन् (*r'itin*), of the *un'ádi* class. As this affix, however, occurs, so far as I know, only in this single instance, and as the meaning of the radical countenances neither literally nor metaphorically, the sense of its would be derivative, I do not hesitate to reject this explanation, as has been done already by Kuhn, and, after him, by Benfey. The former proposes to derive शकृत् (*s'akr'it*) from the radical कॄ (*kr'í*) "to scatter about," and believes that the palatal initial stands in the place of a dental *s* (स्), the vowel *a* being inserted for convenience' sake, as the combination स्क् (*sk*) would be one not particularly agreeable in Sanskrit pronunciation. The dental *s*, again, which would be the original one in this word, according to Kuhn, is explained by him as the letter originally inherent in कॄ (*kr'í*), and reappearing in its derivatives, as अपस्कर (*apaskara*) and अवस्कर (*avaskara*), so that the radical कॄ (*kr'í*) itself would have originally sounded स्कॄ (*skr'í*).

I apprehend that Kuhn, whose usual cautiousness and accuracy in etymological researches entitle his assertions to the fullest credit, has been betrayed, in this case, into a wrong theory. For, the change of the Sanskrit palatal *s'* to the dental *s* is, in general, of such infrequent occurrence, and in almost all instances where it is met with, so clearly traceable to some mistake, that I cannot accede to such an assumption, unless it be confirmed by other and indisputable cases; of which none, I confess, have as yet come under my own observation. Nor is the "insertion" of an *a* between this supposititious *s* and the *k* following it,

proved, in my opinion; since I cannot admit that the combination *sk* (which is not unusual in the middle of words, and though not frequent, yet not unheard-of in the beginning of them), is so unpalatable to the Hindu tongue as to cause in this word a disruption in *sak*, which does not occur in other words of a similar kind. Another exception must be taken to what Kuhn considers as the original form of the radical कॄ (*kr'ī*); because the स् (*s*) in अपस्कर (*apaskara*) and अवस्कर (*avaskara*) is more likely to belong to *apa* and *ava*, as undoubtedly it does not belong to कृ (*kr'i*) "to do," in संस्कृ (*sans-kr'i*), उपस्कृ (*upas-kr'i*), and as it does not appear in *cer-n-o*, *κρι-ν-ω*, *κερ-αν-νυμι*, the kindred forms of the Sanskrit radical कॄ (*kr'ī*). But last, not least, a theme like शकृत् (*s'akr'it*) could not be derived from a radical terminating in the *long* vowel ॠ (*r'ī*), as no grammatical rule allows a similar formation, and the only word so derived by the native authorities, namely, ददृत (*dadr'it*), is better referred to another origin.

Before I offer my own explanation of this word, may I be allowed to state a principle, the application of which I have found useful in many instances? This is, whenever the etymon of a word cannot be laid open by a clear grammatical process, and the different modes of analysis which may suggest themselves rather enhance than remove the doubts as to what may be the true etymology,—then consult the synonyms of the word, and, if I may say so, the imaginative idea which is expressed by them. Applying this principle to the words meaning "excrements," in Sanskrit, you will find that some of them proceed from the idea of *filling*, others from that of *evacuating*, and others from the *aspect* of the matter to be extruded, while one word, namely शमल (*s'amala*) distinctly involves the meaning of "*calming, giving ease*," whether we derive it, with the native authorities, from शम् (*s'am*) "to calm," with the suffix *ala*; or whether we consider it as a compound of श (*s'a*), and मल (*mala*) "dirt;"—the former from the same radical

शम् (*s'am*), meaning "happy" or "happiness," and occurring usually in compounds, such as शंभु (*s'ambhu*), शंकर (*s'amkara*), शंपा (*sampá*), but probably being also the thematic form of शिव (*s'iva*), the euphemistic name of the Terrific God.

If then there existed the intention of combining this notion with words meaning "excrements,"—and I refer to those also the word mentioned before, viz. अवस्कर (*avaskara*), which I derive from अवस् (*avas*) and कर (*kara*),—I am led to suppose that शकृत् (*s'akr'it*) is a compound, the former part of which is the word श (*s'a*), which we have seen in शमल (*s'amala*), and the latter कृत् (*kr'it*) "doing," "producing," from कृ (*kr'i*) "to do."

For those, however, who are not conversant with Sanskrit, a few remarks with respect to कृत् (*kr'it*), and formations of a similar kind, will be required on behalf of the conclusions I have to draw. Every Sanskrit radical is allowed, in general, to appear in its crude shape at the end of certain compounds, without assuming any visible suffix. वृत्र (*vr'itra*), "a demon," for instance, and हन् (*han*) "to kill," may form a word वृत्रहन् (*vr'itrahan*) "the killer of Vr'itra." But if the radical terminates in a short vowel, a त् (*t*) is added to it, as it were to protect the radical vowel against such changes as would arise from its meeting with other vowels, according to the phonetic laws of Sanskrit. *Vr'itra*, for instance, and *ji* "to conquer," would form *vr'itra-jit* "the conqueror of Vr'itra." This precaution belongs particularly to Sanskrit, and (as I conclude from other instances in which this language has proceeded in a different way) is one which must have originated in a time comparatively recent, as is generally the case with all additional elements, which are to prevent the collision of letters, and produce what we call *regular* conjugations, declensions, &c., though, from a logical point of view, they are the most *irregular* phænomena of language, because they introduce into its living organism dead

mechanical matter. Whether such additional elements, which agree with the predilections of one people, and which, though constituting the individuality of a language, are productions extraneous to the common stem, appear, or do not appear, in its kindred branches, is therefore merely a matter of chance, not one of necessity. The form शकृत् (*s'akr'it*), a compound of श (*s'a*) and कृ (*kr'i*), *may* therefore reappear with its extraneous *t* peculiar to Sanskrit, in Latin, in Greek, or in other kindred languages, but the organic elements of which this word is composed are complete in the form शकृ (*s'akr'i*), or, —according to the change to which the *r'i* vowel is subject in Sanskrit as soon as the thematic form becomes a real one,—in the form शकर् (*s'akar*).

If we return to the Greek and Latin forms of this word, it will now be seen why, in the declension of *stercus*, which represents a theme *stercor-*, the disappearance of the final *t* of *s'akr'it* has nothing irregular in itself; and why in σκώρ, which supposes a theme σκαρτ-, the τ has been retained in σκατ-ος, &c., while the presence of the radical ρ is still manifest in the nominative σκώρ. A real difficulty would seem to exist in the Greek and Latin forms beginning with a dental *s*, as a guttural sound would have been the legitimate representative of the palatal Sanskrit *s'*. Be it, however, that the beginning of two successive syllables with a guttural sound has been distasteful to these languages; be it that the elision of the vowel of *s'a* in the Greek word σκώρ, and the transposition of the *t* in the Latin *stercus* originates in another motive than that of avoiding the repetition of the gutturals; then, the latter expedient once adopted, it is clear that before *t* or κ, the palatal sibilant could not have a nearer representative than the dental *s*. With respect to the vowels of these words, it is obvious that in *stercus*, where the final *t* never existed in the thematic form, the terminating vowel has remained short, while the long vowel of the nominative σκώρ

must be considered as a compensation for the loss of the τ, which was preserved in the theme of the Greek word.

It remains for us to inquire into one point, which concerns at first only the Sanskrit forms शकृत् (*s'akr'it*), and यकृत् (*yakr'it*), but is essential also for the Latin *jecur*. I mean the fact, that शकृत् (*s'akr'it*) shows in some of its cases another theme शकन् (*s'akan*), and यकृत् (*yakr'it*) another theme यकन् (*yakan*). The locative and genitive, in the singular of these words, for instance, are of the following kind: शकृति (*s'akr'iti*) or शकनि (*s'akani*), शकृतस् (*s'akr'itas*) or शक्नस् (*s'aknas*); यकृति (*yakr'iti*) or यकनि (*yakani*), यकृतस् (*yakr'itas*) or यक्नस् (*yaknas*). The interchange of these forms may be explained in a different way. Benfey supposes that there existed an original form *s'akarnt* and *yakarnt*; an hypothesis warranted neither by etymology nor by the laws of grammar; and Kuhn, that in words of a similar formation there was an original form in *ant*, the offspring of which are the thematic forms in *an* and *ar*. Adjectives in त्वन् (*tvan*), for instance, and several words in वन् (*van*), with a feminine in री (*rí*), as अतीत्वन् (*atítvan*), fem. अतीत्वरी (*atítvarí*), यज्वन् (*yajvan*), fem. यज्वरी (*yajvarí*), पीवन् (*pívan*, πίων), fem. पीवरी (*pívarí*, πίειρα), &c., would; according to him, originate in themes, such as *atítvant yajvant*, *pívant*, &c. A natural consequence, in our case, would be, to suppose original themes, *s'akant* and *yakant*, to explain the forms *s'akan* and *s'akar*, *yakan*, and *yakar*. The derivation I have given above precludes this assumption. For, as the form कर् (*kar*) of शकर् (*s'akar*), represents the *organic* elements of the radical कृ (*kr'i*), itself, *s'akan* could, if my view is correct, only result from *s'akar*, in consequence of a change which, in Sanskrit, must be considered irregular, but may be accounted for, if we suppose that शकर् (*s'akar*) became शकस् (*s'akas*), and then शकः (*sakah'*), and that between this and शकन् (*s'akan*), there was a form शकं (*sakam'*), forming a transitory passage from शकः

(*sakah'*), leading to शकन् (*s'akan*). Though this process is a hypothetical one, and not capable of strict proof, and may therefore be considered objectionable, it seems to me more congenial with the language itself to suppose in this case, as well as in those alleged from Kuhn, a change from *r* (or *s*) to *n*, than to imagine the existence of a theme in *ant*, no direct trace of which is left in either of these formations. This view seems confirmed by the existence of thematic forms, which Kuhn has himself pointed out, as यजुस् (*yajus*), and ऊधस् (*údhas*), together with यज्वन् (*yajvan*), fem. यज्वरी (*yajvarí*), and ऊधन् (*údhna*), ऊधर् (*údhar*); but still more by the themes असृज् (*asr'ij*) and असन् (*asan*), the latter of which can only be explained by the elision of ज् (*j*) in a transitory form असर्ज् (*asarj*), the corresponding intermediate form being safely preserved in the Latin *'sang-uis*. The theme शकन् (*s'akan*), is not represented in the declension of *stercus* or σκώρ, but it exists in two words, the close etymological affinity of which with *stercus* and σκώρ might scarcely be guessed without recourse being had to the kindred Sanskrit word.

शकन् (*s'akan*) admits, in Sanskrit, a regular denominative शकाय् (*s'akáy*), *stercus facere*, which is conjugated according to the tenth class of verbs, a class corresponding in its formation with the Greek contracted verbs in αω, εω, οω, and in Latin with those of the first, second and fourth conjugations. The Sanskrit palatal *s'* being regularly represented in Latin and Greek by *k*, शकाय् (*s'akáy*), has its Latin and Greek representatives in *cac-are* κακ-άω, which, therefore, are denominatives of *stercus* and σκώρ, though referable to the Sanskrit form *s'akr'it*.

In the words *jecur*, ἧπαρ and यकृत् (*yakr'it*), we perceive the same phænomena as in those we have been considering, and I have merely to refer to the preceding remarks to account for their apparent diversity. यकृत् (*yakr'it*) has been already correctly understood by the Hindu

grammarians as being a compound of य (*ya*) and कृत् (*kr'it*), though, strange to say, they have mistaken the original bearing of the form शकृत् (*s'akr'it*). The theme यकन् (*yakan*), of which I have spoken before, is preserved in *jecin-or* of *jecur*, which has affirmed the suffix *or* (not to be confounded with the radical *or* in *jecor-*); ἧπαρ shows its radical ρ only in the nominative of the singular, like σκώρ, while it has the *-t* of *yakr'it* in the other cases. But less clear is the etymological meaning of these words, for which we must again have recourse to the Sanskrit form यकृत् (*yakr'it*), as composed of य (*ya*),—which, amongst other things, means "union,"—and कृत् (*krít*), "doing, producing," and which is explained in native dictionaries as "that which makes the union (sc. of the parts of the body.)" To understand what they may mean by this, it would be necessary to know the function ascribed to the liver by the old Hindu medical works. As yet, however, I have not been able to ascertain their theory on this point, as neither Sus'ruta, nor Charaka and A'treya, their most renowned authors on Medicine, contain any hint as to their notions on it. Nor do the other four synonymes of this word in Sanskrit afford any aid, as they merely refer to the black and fleshy substance of the liver. It may be considered, however, as a curious coincidence, that the German word *Leber* (which, like the whole Germanic branch of this word, presents the only instance perhaps in which the semi-vowel *y* of the Sanskrit idiom corresponds with the semi-vowel *l*) does originally mean, not the part of the body we call "liver," but every substance which is "prominent and firmly united in its parts," as opposed to substances which are low and soft. The notion of joining or uniting is still prevalent in the word *Leber* or *Leberstein* (liver or liver-stone), which in an Austrian dialect means a *boundary stone*, i.e. a stone put where two fields join. It would seem, therefore, that this meaning of "joining or making union," as expressed by the component parts of

यकृत (*yakr'it*), was also the primitive meaning of this word in Sanskrit, but became lost, and has only been preserved in some German dialects.

Before I conclude I may be allowed to point out two other words, which, from what I have said above, will derive a more correct explanation than they have hitherto obtained. I mean the Latin word *secus*, and the Greek word ἑκάς. These I connect with the Sanskrit word सकृत् (*sakr'it*), (written with a dental *s* in the beginning, and therefore not to be mistaken for the word *s'akr'it, stercus*). सकृत् (*sakr'it*), is composed of *sa*, an abbreviated form of सम् (*sam*), which in composition with verbs either means "with," "together," or "thoroughly," and *kr'it* "doing;" the original meaning of *sakr'it* is, therefore, "doing thoroughly," "doing so as not to require doing again:" this got lost, however, and was superseded by the meaning "once," "always." The meanings of *secus* and ἑκάς do not correspond with those of सकृत् (*sakr'it*), but the notion of exclusiveness which is implied by "once," and "always" is logically connected with the notion of "distance" and "separation," expressed by *secus* and ἑκάς; and if we consider that in the Sanskrit word, the etymon of which has remained clear, the literal meaning had already made room for the figurative one, a further step in this direction will much less appear strange in languages where the consciousness of the original value of the word was entirely lost. Having shown how कृत् (*kr'it*), which is originally कृ (*kr'i*), or कर् (*kar*), becomes *cor* and κωρ or κατ, I have only to observe that, in my opinion, *secus* and ἑκάς represent the nominatives of the themes *secor-* and ἑκατ-, and that these nominatives have become indeclinable. *Se* in *secus* and ἑ in ἑκάς are interesting forms, moreover, in as far as they exactly represent the Sanskrit स (*sa*), which in its full form सम् (*sam*), is the Greek σύν, but appears more changed in the Latin *cum*. Whether ἅπαξ may be safely referred to सकृत् (*sakr'it*), with which it corresponds in meaning "once," I do not

attempt to say; though I do not consider it unlikely that the form *sakar* (the organic form of *sakr'it*), changed to *sakah'*, might appear with π instead of κ, and with a full guttural sound in the Greek ἀπακ; ἅπαξ representing, if this assumption be correct, the nominative of this theme, which then became indeclinable, just as the themes *secor* and ἑκατ have become indeclinable nominatives, *secus* and ἑκάς.

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